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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

Summary

The Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, submits the present report to the Human Rights Council in accordance with Council resolutions 7/22 and 16/2. She focuses on national and local planning for the implementation of the rights to water and to sanitation, highlighting the importance of having a vision and political will to ensure the realization of those rights. She outlines relevant existing frameworks for planning and the significance of integrating human rights throughout the planning process from assessment and diagnosis, target setting, the formulation and implementation of appropriate measures to monitoring and evaluation. She continues by identifying a number of factors for successful planning including sound legal frameworks and institutions, access to justice and clear designation of responsibilities; adequate financing; participation and transparency; and non-discrimination and equality. The final section of the report contains conclusions and recommendations.

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I. Introduction

1. The Special Rapporteur on the human right to safe drinking water and sanitation submits the present report in accordance with Human Rights Council resolutions 7/22 and 16/2. In the report, she focuses on national and local planning for the implementation of the rights to water and to sanitation.

2. Having a vision and the corresponding political will to transform that vision into reality are fundamental first steps to the realization of the rights to water and to sanitation. As the United Nations Development Programme (UNDP) observed in the *Human Development Report 2006* on water: “The obvious starting point for a drive towards universal access to water and sanitation is political will, broadly defined as the resolve to put the issue at the centre of the national agenda.”¹ The preparation and adoption of actionable strategies and plans is a manifestation of that vision and can set out how a State intends to realize the rights to water and to sanitation.

3. The Special Rapporteur engaged in a wide consultative process, including two multi-stakeholder expert consultations where participants discussed the different phases of planning and how human rights can strengthen that process, as well as questions of financing.² The Special Rapporteur also received numerous written contributions. The in-depth discussions and varied perspectives have provided her with valuable guidance in preparing the present report and she is grateful to all those who contributed with their time and expertise. Several of the examples cited in this report were obtained through this consultative process.³

II. Setting the scene

A. Why planning matters

4. The Special Rapporteur advocates for planning that goes beyond superficial statements of intent to specific commitments backed by necessary political support, strong institutions, and human and financial resources. Too often, plans of action are narrowly understood as a piece of paper, rather than a process towards better protection of human rights. If understood as a process, good planning can have transformative impacts for the water and sanitation sectors as well as for the enjoyment of these rights. In the present report, the Special Rapporteur explores various facets of successful planning exercises.

5. Planning processes in line with human rights contributes to ensuring a coherent approach that accords sufficient priority to water and sanitation, helps to ensure more sustainable results, and strengthens accountability. A clearly articulated vision has the advantage of serving as a firm foundation for prioritizing funding to the sector, both within the domestic budget as well as through international assistance. This vision can inspire confidence that funds can be absorbed and spent in line with the stated goals.

¹ UNDP, *Human Development Report 2006: Beyond Scarcity - Power, Poverty and the Global Water Crisis* (New York, 2006), p. 61.

² The second consultation was held in Lisbon, organized by the Centre For Women’s Global Leadership at Rutgers University.

³ The Special Rapporteur relied on examples as described to her by relevant stakeholders; however, replication or endorsement of such practices would require further verification.

6. National planning provides opportunities to ensure more coordinated and consistent responses to broader concerns such as climate change and water scarcity. Good planning will also identify and address incompatibilities with human rights as well as overlaps and gaps in laws and policies. Successful planning is based on broad participation, which further contributes to effective implementation and sustainability. Effective national planning frequently leads to improved data on water and sanitation as well as to clarified responsibilities for more efficient and effective management of water and sanitation, thus contributing to enhanced accountability.

B. Realization of the human rights to water and to sanitation

7. The rights to water and to sanitation are guaranteed under international human rights law and States must take measures towards the progressive realization of these rights. This requires concrete and targeted steps to the maximum of their available resources. States are required to move towards the goal of full realization as expeditiously and effectively as possible, within the framework of international cooperation and assistance, where needed. Certain aspects of these rights are immediate obligations, including the requirement to guarantee them without discrimination.

8. The normative content of the rights to water and to sanitation provides the standard to be achieved in terms of the following criteria:⁴

(a) *Availability*. The human right to water is limited to personal and domestic uses and foresees a supply for each person that must be sufficient for these purposes. Likewise, a sufficient number of sanitation facilities must be available;

(b) *Quality*. Water must be safe for consumption and other uses and not threaten human health. Sanitation facilities must be hygienically and technically safe to use. To ensure hygiene, access to water for cleansing and hand washing after use is essential;

(c) *Acceptability*. Sanitation facilities, in particular, must be culturally acceptable. This will often require gender-specific facilities, constructed in a way that ensures privacy and dignity;

(d) *Accessibility*. Water and sanitation services must be accessible to everyone in the household or its vicinity on a continuous basis, as well as in schools, health-care facilities and other public institutions and places. Physical security must not be threatened during access to facilities;

(e) *Affordability*. Access to sanitation and water must not compromise the ability to pay for other essential necessities guaranteed by human rights, such as food, housing and health care.

9. These criteria reflect the need for a holistic, comprehensive, and coherent approach to fully realize the rights to water and to sanitation for all.

⁴ For a detailed explanation of these criteria, see Committee on Economic, Social and Cultural Rights, general comment No. 15 (2002) on the right to water, para. 12, and the report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation (A/HRC/12/24 and Corr.1), paras. 69 ff.

C. Relevant frameworks for planning

10. The call for strategies and plans of action regarding human rights and/or water and sanitation is not new.

11. In the area of human rights, the Vienna Declaration and Programme of Action, adopted on 25 June 1993 by the World Conference on Human Rights, highlighted the importance of national plans of action as tools for the promotion and protection of human rights.⁵ Apart from these generic national human rights action plans, which several States have developed, others have put into place sectoral plans addressing specific human rights concerns and aspects, such as human trafficking, racism, child rights and social inclusion. Notably, the Human Rights Council and the Committee on Economic, Social and Cultural Rights have emphasized the importance of national plans of action for the realization of the rights to water and to sanitation.⁶

12. In the context of water and sanitation specifically, a number of planning exercises are relevant, ranging from short- to long-term planning. Here, strategies are understood to set out the general framework, often covering development more broadly and setting the tone for policy development. Such strategies are longer term and should be in place before a plan of action is developed. In turn, action plans are based on these strategies. They cover only water and/or sanitation, and are more specific, short term and action oriented, including the detailed activities to implement the overall strategy. These are often developed at the national level.

13. Since water and sanitation service provision is often the responsibility of the local authorities, planning at the local level is equally relevant. In some States, subnational or local government is further responsible for policymaking in the field of water and sanitation. In Germany, for example, federal law⁷ provides the general framework for water management and water and sanitation service provision, while specifics are provided for at the subnational level (the *Länder*).⁸ Within this legal framework, municipalities maintain the competence for the specific arrangements. The exact determination of what proportion of planning is to take place at the national and local levels will depend on the country's legal and administrative system, in particular the extent of decentralization. In many cases, at a minimum, the overall strategy and framework will be set out at the national level, while the specific activities to implement this strategy will be planned locally.

14. Many countries already have a national strategy and/or plan of action specifically devoted to water and/or sanitation, although water is more often addressed than sanitation. Indeed, the Global Annual Assessment of Sanitation and Drinking-Water found that almost one third of the reporting countries did not have a sanitation policy in place covering urban and rural areas.⁹ The need for sound national planning processes is reiterated by the initiative entitled "Sustainable sanitation: the five-year drive to 2015".¹⁰ Similarly, the Sanitation and Water for All initiative, an international partnership of national Governments, donors, civil society organizations and others, emphasizes the critical role of

⁵ A/Conf.157/23, para. 71.

⁶ Human Rights Council resolution 12/8, para. 4 (c) and (d); Committee on Economic, Social and Cultural Rights, general comment No. 15, para. 47.

⁷ Gesetz zur Ordnung des Wasserhaushalts, 2009. Available from www.gesetze-im-internet.de/bundesrecht/whg_2009/gesamt.pdf.

⁸ For example, Niedersächsisches Wassergesetz. Available from www.recht-niedersachsen.de/28200/nwg.htm.

⁹ UN-Water and World Health Organization (WHO), *UN-Water Global Annual Assessment of Sanitation and Drinking-Water (GLAAS 2010)* (Geneva, World Health Organization, 2010), p. 38.

¹⁰ General Assembly resolution 65/153, para. 3.

national planning. It seeks to galvanize political commitment to increase access to water and sanitation and, inter alia, provides capacity-building support for strong national processes that rely on improved data and analysis of the sanitation and water supply sectors for decision-making.¹¹ For example, this initiative catalysed the preparation of The Ghana Compact: Sanitation and Water for All – A Global Framework for Action, in which Ghana commits to an annual allocation of \$350 million towards water and sanitation improvements and up to 0.5 per cent of gross domestic product for hygiene education, including hand washing and Community-led Total Sanitation.¹²

15. Along with the provision of water and sanitation services, water resource management should be considered. The Plan of Implementation of the World Summit on Sustainable Development called on all States to develop integrated water resources management plans by 2005.¹³ The Global Water Partnership defines this approach as “a process which promotes the coordinated development and management of water, land and related resources in order to maximise the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital eco-systems”.¹⁴ Integrating human rights into this process would, inter alia, stress the prioritization of basic human needs in the allocation of water. The National Water Sector Development Strategy of the United Republic of Tanzania, for example, demonstrates this approach, stating that “allocation of water for basic human needs in adequate quantity and acceptable quality will receive highest priority”.¹⁵

16. Moreover, many developing countries have a development strategy, which is frequently based on the Millennium Development Goals or driven by poverty reduction strategy processes. Water and sanitation should be accorded priority in these broader national development strategies. While development strategies have long been perceived as suffering from a “blind spot” with respect to water and in particular sanitation,¹⁶ more recent surveys indicate that many such strategies cover water and/or sanitation.¹⁷ Some countries, such as the Plurinational State of Bolivia, in its National Development Plan (2006-2011), have clearly made water and sanitation a national priority.¹⁸

17. The realization of the rights to water and to sanitation should be considered from the outset, in the planning exercise that determines the general framework at the national level. Hence, coherent planning will require integration of the human rights to water and to sanitation into existing strategies that cover related policy fields and development more broadly. For instance, since the rights to water and to sanitation relate to all spheres of life, plans in the field of education or health should cover access to (sex-segregated) water and

¹¹ Sanitation and Water for All, fact sheet. Available from www.sanitationandwaterforall.org/files/Publications%20and%20Resources/SWA_Fact_Sheet_English.pdf.

¹² Pp. 4 and 12. Available from www.sanitationandwaterforall.org/files/The_Ghana_Compact.pdf.

¹³ *Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002* (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex, para. 26.

¹⁴ Global Water Partnership, ToolBox, “Integrated water resource management”, first paragraph. Available from www.gwptoolbox.org/index.php?option=com_content&view=article&id=8&Itemid=3.

¹⁵ Available from www.maji.go.tz/modules/documents/index.php?&direction=0&order=&directory=Strategies, p. 34.

¹⁶ UNDP, *Human Development Report 2006* (note 1 above), p. 103.

¹⁷ UN-Water and WHO, *GLAAS 2010* (note 9 above), p. 40.

¹⁸ Plan Nacional de Desarrollo: 2006 – 2011. Available from www.ine.gob.bo/pdf/PND/03.pdf, pp. 23-36, 74-80.

sanitation in schools and hospitals. Poverty reduction strategies and national development plans should also have specific action envisaged on water and sanitation.

18. Specific strategies and plans for water and sanitation will often also be essential to ensure that these issues are accorded sufficient priority and that their specificities are taken into account. These will need to be linked to broader plans and strategies in related sectors to ensure a coherent approach. A sole focus on mainstreaming would bear the risk of diluting the issue and limiting it to rhetorical repackaging. Moreover, it has also been found that strong sectoral planning influences donor prioritization¹⁹ and thus can help to increase funding to the sectors. Often overlooked, formulating a specific strategy on sanitation, as has been done in Bangladesh,²⁰ has been shown in many cases to significantly contribute to prioritization of the issue.

19. Existing strong strategies and/or plans for the water and sanitation sectors should be re-examined, revised and fully aligned with human rights standards and principles. Often, such strategies already implicitly include human rights principles such as non-discrimination – while not necessarily couched in the language of human rights – and can be built upon. Where no such planning exists, or where sanitation and water do not enjoy sufficient priority, the development of a new strategy and/or plan based on the human rights to water and to sanitation will be necessary.

III. Phases of planning

A. Assessment and diagnosis

20. The development of a strategy and plan for the implementation of the rights to water and to sanitation must be based on a robust situational analysis that enables States to know where they stand both in terms of outcomes as well as inputs to the sectors, including on the status of the realization of the rights to water and to sanitation, on access to safe and affordable water and sanitation, and on funding flows to existing activities, resources and institutional capacities.

21. Bangladesh, for example, is currently in the process of carrying out an assessment regarding the status of sanitation in the country. A national sanitation conference entitled BanglaSan took place in January 2011 and gathered together about 700 representatives of government, non-governmental organizations, experts, elected representatives and professionals. The Government of Bangladesh committed to carry out a national sanitation census to identify gaps and prepare an action plan that includes the necessary allocations.²¹

22. The normative content of the rights to water and to sanitation is a good basis for such an assessment. Analysing the current situation will require a detailed understanding of access, and will need to go beyond currently reported information, for example, in the framework of the monitoring of the Millennium Development Goals. Often, existing information from censuses, demographic surveys and samples is not as detailed, targeted and disaggregated as would be required for a thorough assessment based on human rights

¹⁹ UN-Water and WHO, *GLAAS 2010* (note 9 above), p. 22.

²⁰ See Bangladesh, National Sanitation Strategy (2005). Available from www.dphe.gov.bd/pdf/MR11_SanitationStrategy.pdf.

²¹ See www.wsscc.org/resources/resource-news-archive/banglasan-participants-hear-governments-commitment-wash.

criteria and indicators. Inadequate data can therefore be a serious constraint, underscoring the need for improvement and capacity-strengthening in that area.

23. However, better use could be made of data already gathered. At the global level, the WHO/UNICEF Joint Monitoring Programme for the Water and Sanitation Sector, responsible for monitoring progress towards the Millennium Development Goals target on water and sanitation, has started to develop new targets and indicators in line with human rights criteria. This process seeks to consider, inter alia, to what extent data gathered through existing surveys could be disaggregated to address prohibited grounds of discrimination. At the same time, the Joint Monitoring Programme is strengthening data collection for other relevant indicators, such as water quality.

24. Non-discrimination is a core concept in human rights law, and in this regard, the assessment must pay particular attention to marginalized and vulnerable groups to determine their levels of access and specific barriers they may face. Such an assessment must analyse why people do not have access, identifying existing gaps, exclusions, barriers and constraints. Only when the discriminatory impact of laws and policies is identified can adequate responses be designed to address the root causes for the lack of access.

25. The Performance Assessment System project developed by the Center for Environmental Planning and Technology University in Gujarat, India, seeks to assess the coverage, quality and service levels in water and sanitation in urban areas of the states of Gujarat and Maharashtra. The project focuses particularly on developing better information on reaching poor households, in particular in slum areas, and has developed methods of spatial analysis for monitoring equity in service provision.²²

26. In terms of assessing inputs to the sectors, States should undertake a mapping of policies, programmes and activities already in place, determine what resources have been allocated, and identify the actors, including different service providers, involved. This includes assessing whether existing processes are non-discriminatory and participatory, and ensuring that accountability mechanisms are in place. Such a mapping should assess who is targeted by existing policies and which population groups might be left out. Where this review finds that existing policies or strategies do not fully address all dimensions of or are incompatible with the human rights to water and to sanitation, they need to be repealed, amended or changed to meet human rights requirements. Assessing the existing institutional and financial capacities helps to identify constraints, bottlenecks and weaknesses as well as successful interventions that drive the realization of the rights to water and to sanitation.

27. At the global level, the UN-Water Global Annual Assessment of Sanitation and Drinking-Water provides information on inputs to the sectors, including policy formulation, institutional arrangements and the allocation of resources seeking to identify drivers and bottlenecks in improving access. Notably, its 2011 questionnaire also includes attention to human rights concerns. The Country Status Overview reports developed by the Water and Sanitation Program of the World Bank provide another tool for situational analysis and diagnosis at the country level. The African Ministers' Council on Water has commissioned the production of these overviews for most sub-Saharan African countries, and similar efforts are underway in Latin American and Asian countries.

²² See www.spcept.ac.in/pas_project.aspx?pg=pas.

B. Target setting

28. National plans should set targets for progress in achieving access to water and sanitation, which provide the basis for accountability. Ultimately, international human rights law requires that States aim for universal coverage within time frames tailored to the country situation. Target setting must be undertaken with reference to an objective assessment of national priorities and resource constraints – going to the maximum of a State’s available resources. In this regard, some countries present notable examples. For instance, Sri Lanka aims for universal access to water and sanitation by 2020,²³ while Nepal aims to achieve universal access to both by 2017.²⁴ Such targets should utilize human rights criteria of availability, quality, acceptability, accessibility and affordability and provide specific definitions of each.

29. The ultimate goal of universal coverage should be broken down into more specific time-bound targets and benchmarks to be achieved in shorter time periods. A firm time frame for targets to be reached and activities required to achieve these targets are essential to determining concrete steps to be taken and to enabling people to hold the Government accountable for these targets.

30. The Economic Commission for Europe Protocol on Water and Health includes detailed provisions on target setting. It stipulates in article 6, paragraph 2, that States parties “shall each establish and publish national and/or local targets for the standards and levels of performance that need to be achieved or maintained for a high level of protection against water-related disease” covering different parameters, including water quality, levels of performance, and the occurrence and quality of discharges. States that have set detailed targets tailored to their country situation include the Czech Republic, Finland, Hungary, Slovakia, and Switzerland.²⁵

31. Progressive realization also implies that States must move beyond minimum standards towards gradually achieving higher levels of service. States must balance short-, medium- and long-term measures to ensure sustainable service provision at a universal level, while giving priority to realizing a basic level of service for everyone before improving service levels for those already served. The Nepalese National Water Plan mentioned above is a good example, as it aims at universal access to basic service levels by 2017, and then seeks to improve these service levels to medium or high standards by 2027.²⁶

32. Targets must be ambitious, but realistic. In some cases, targets are based on trends in access. For instance, one might examine the percentage of the population that gained access in the past decade, and then set a target which mirrors this rate of access. However, this approach does not take into account the maximum of available resources and may therefore be too low from a human rights perspective, especially in the context of historic underfunding of the water and sanitation sectors. Target setting is not just a technical or bureaucratic matter, but a political process relating to the decision of whether resources to the sectors must be increased to meet human rights standards. In other instances, targets have been set that are too high and thus unrealistic. Institutions will not be accountable if targets set are manifestly unachievable, thus taking on an aspirational nature. Targets must

²³ Shanika Sriyananda, “Sri Lanka achieves MDG on water and sanitation”, *Sunday Observer* (Colombo), 3 April 2011. Available from www.sundayobserver.lk/2011/04/03/fea02.asp.

²⁴ Nepal, National Water Plan, p. 29. Available from www.moen.gov.np/pdf_files/national_water_plan.pdf.

²⁵ See www.unece.org/env/water/Protocol_implementation_reports.html.

²⁶ See note 24 above, p. 29.

therefore be based on a realistic assessment of resources and capacity. It is essential to predict the costs of the requirements to meet a given target, that is, to calculate the necessary expenditures as well as anticipate the revenue realistically. Moreover, planners not only should consider the availability of actual and potential financial resources, but they should also develop plans to ensure that there is capacity to absorb these resources and ensure proper expenditure.

33. The Brazilian experience in scenario-building provides an interesting example of a method that can be used, inter alia, to set targets. It relies on a broad-based participatory process as well as consultation with technical specialists. The stakeholders and experts are asked to estimate what targets would be realistic to achieve in a given time frame (until 2030), first based on existing trends regarding a number of indicators, but also adjusted to an increase in the budget.

C. Formulation and implementation of appropriate measures

34. States would then need to formulate and design the necessary measures to calculate what actions are required to meet these targets in terms of financial, human, institutional and other resources. Human rights law does not prescribe the specific measures that States should take, but provides a framework for formulation and implementation. It stipulates the goals to reach and issues to be considered to ensure that service provision meets human rights standards, while the specific and most appropriate measures depend on the circumstances in each particular State.

35. States must ultimately ensure that all people under their jurisdiction have access to sufficient, safe, acceptable and affordable water and sanitation services. While a water and sanitation strategy may adopt the overall framework, plans should be action oriented and list the measures to be adopted as specifically as possible. For instance, with regard to the affordability of service provision, States must, among other measures, design a tariff structure that considers the needs of all people, including those in poverty; designate an institution responsible for setting tariffs, regulating service providers and monitoring affordability; adopt supplementary social policies if necessary; consider operation and maintenance as well as connection costs in the case of networked supply, but also individual contributions for other forms of services; and set standards and safeguards for disconnections due to non-payment.

D. Monitoring and evaluation

36. From the outset, strategies and plans must include built-in arrangements for monitoring and evaluation. States must monitor whether the envisaged steps and activities have been taken and to what extent human rights have been integrated. They must assess progress and identify shortcomings and remaining challenges. Periodic reports on progress on the implementation of the plan are one way to enable monitoring. Based on the evaluation of the steps taken, subsequent changes and corrections to the plan should be undertaken.

37. States should monitor whether the set targets have been reached within the envisaged time frame. To enable monitoring of the realization of the rights to water and to sanitation, States should develop relevant indicators, taking into account human rights criteria. These indicators can relate, for example, to reduction of the time spent in collecting water, improvement of water quality and increases in the percentage of treatment of wastewater. Such indicators should be designed not only to measure the outcome in terms of access, but also to capture the progress made and Government efforts. Moreover, data

must be disaggregated according to prohibited grounds of discrimination to capture whether the specific targets set for marginalized and vulnerable populations have been reached.

38. Monitoring must be carried out by State institutions, but external actors should be able to examine critically public monitoring processes, reports and data sets, which requires full transparency regarding these processes. Civil society organizations and communities themselves should be involved in monitoring and evaluation activities related to their water and sanitation services. In some countries, such as Argentina and Portugal, regulatory institutions play a significant role in monitoring service provision, while in others, such as Colombia, Ecuador and Peru, national human rights institutions have developed extensive monitoring programmes regarding the realization of the right to water. Slum Dwellers International encourages data collection by local communities in order to ensure that data is accurate and relevant to the community.²⁷

IV. Success factors

39. The success of planning is as much about the process of the development of the plan as about the actual plan and the activities that flow from it. Successful planning includes a number of factors explored below.

A. Sound legal frameworks based on human rights and access to justice

40. Water and sanitation strategies and plans must be anchored in a strong legal framework. First, this requires a review of existing legislation to detect gaps and to assess whether it is in line with the full enjoyment of the rights to water and to sanitation. This relates to the legal framework for water and sanitation specifically, but also to legislation that may have an indirect impact on it, such as criminal, child protection, urban planning or inheritance laws. Where legislation is inconsistent, it must be repealed, amended or adapted. Laws and regulations should include clear standards for service delivery covering the normative content of the rights, so as to provide the basis for accountability by allowing people to base claims on legally binding entitlements. For instance, South African regulations provide very clear standards for basic water supply, referring to a minimum quantity of 25 litres per person per day, at a minimum flow rate of not less than 10 litres per minute, within 200 metres of a household.²⁸

41. Moreover, legislation must prohibit discrimination and should provide for participatory processes. Water and sanitation laws should also clearly designate institutional roles and responsibilities. Water and sanitation should be claimable human rights, ensuring access to justice and other accountability mechanisms. Access to justice requires not only the existence of courts and a legal system, but also awareness of the law and rights and opportunities to claim them. Measures must be put in place to overcome obstacles in access to justice such as prohibitive costs, language requirements, needs of representation and geographic location of the courts, as well as legal aid.

²⁷ For details on these monitoring processes, see the compilation of good practices (A/HRC/18/33/Add.1).

²⁸ South Africa, Regulations relating to compulsory national standards and measures to conserve water, 20 April 2001, p. 3. Available from www.dwaf.gov.za/Documents/Notices/Water%20Services%20Act/SEC9DREG-20%20April%202001.doc.

B. Strong institutions and clear designation of responsibilities

42. The success of planning largely depends on the institutions and actors involved. Strong institutions will support the political vision of the plan and its implementation.

43. Responsibilities in the water and sanitation sectors are often horizontally fragmented among different ministries and departments and vertically fragmented between the national/central and local levels. This reality makes coordination between different sectors, such as health, education, agriculture and social welfare, and at different levels of Government, including municipalities and regions, essential. The roles and responsibilities of these different institutions should be defined clearly in planning and all of these stakeholders should be involved in the process of elaborating and implementing the plan. Where local governments are responsible for delivering services, it is essential that they are involved in planning from the beginning. Moreover, civil society must also be involved in the planning process, as should the private sector where relevant. Finally, while donors and international organizations will often take part, it must be ensured that the process is country-driven. To gain authority and legitimacy, the plan should be endorsed at the highest political level.

44. In Kenya, the Ministry of Water and Irrigation has been implementing reforms in the sector since 2004 based on the new Water Act of 2002, with the support of the German Agency for Technical Cooperation (now known as the German Agency for International Cooperation). The Ministry retains responsibility for policy formulation and sector coordination. It has delegated regulation, pro-poor financing, investment planning and development, and service provision to the Water Services Regulatory Board, the Water Services Trust Fund, Water Services Boards and water service providers, respectively. This institutional set-up is explicitly laid out in the Water Act and the clear designation of roles and responsibilities across the national, regional and local level provides the basis for accountable institutions.²⁹

45. Corruption in the water and sanitation sectors seriously undermines the functioning of institutions. Often, the most affected are people living in poverty - corruption perpetuates poverty by reducing efficiency, and undermines the rule of law and democracy. It can occur at all levels, regardless of whether services are managed by public or private providers.³⁰ There are valuable measures that Governments can undertake to prevent corruption. For instance, the Integrity Pact developed by Transparency International is a tool aimed to help Governments, private companies and civil society prevent corruption in public contracting.³¹

1. Coordination to overcome fragmentation

46. To start planning for the implementation of the rights to water and to sanitation, Governments need to identify and designate the responsible ministry or ministries and department(s). Often, a range of institutions are responsible for different aspects, including the departments of health, infrastructure, environment, education, agriculture and water

²⁹ André Lammerding et al., "All inclusive? How regulation in water and sanitation can be pro-poor: lessons from Sub-Saharan Africa", German Agency for Technical Cooperation (GTZ), Regulation Brief No. 1 (August 2009), pp. 3-8.

³⁰ Transparency International, *Global Corruption Report 2008: Corruption in the Water Sector* (Cambridge University Press, Cambridge, 2008), p. 6.

³¹ Water Integrity Network and Transparency International, *Integrity Pacts in the Water Sector* (2010), p. 15. Available from www.transparency.org/content/download/58296/933272/IP_manual_water_sector.pdf.

resources. Moreover, different entities may be involved in the regulation of the water and sanitation sectors. For instance, regulating water quality may rest with the department of health or environment, while responsibility for regulation of tariffs may lie elsewhere. Yet another ministry might be responsible for implementing social policies necessary to ensure affordability for certain parts of the population. The plan should therefore clearly allocate responsibilities and spell out which actor is to undertake which activity as well as provide for coordination among ministries. Apart from the relevant line ministries, strengthening cooperation with planning and finance ministries is crucial. The experience of the Sanitation and Water for All initiative has shown that the involvement of finance ministers makes a significant difference in ensuring adequate budgetary support to realizing the rights to water and to sanitation. For instance, in Chad, the initiative helped to bring together the Ministers of Finance and Water. Their discussions on the need for a sound sanitation strategy resulted in the disaggregation of the previously consolidated budget line for water and sanitation in order to better track investments in sanitation.³²

47. To ensure coordination, Governments may wish to appoint a focal point or create a steering committee or task force. The Colombo Declaration, adopted at the fourth South Asian Conference on Sanitation in April 2011, explicitly calls on countries “to establish **one national body** with responsibility for coordinating sanitation and hygiene, involving all stakeholders including, but not limited to, those responsible for finance, health, public health, environment, water, education, gender and local government at national, subnational and local levels”.³³ Such a coordination body needs backing from the highest political level as well as a clear mandate. To avoid a disjuncture between the different phases of planning, it is essential that the same institutions are involved throughout the entire planning cycle.

2. Decentralization and the role of local authorities

48. In many States, service provision is decentralized and rests with the local authorities. This does not in any way reduce the State’s human rights obligations. As part of the State, local governments themselves are bound by human rights law. At the same time, minimum standards based on human rights criteria must be set at the national level in order to ensure coherence and countrywide compliance with human rights. States must ensure that local authorities have the necessary financial, human and other resources to effectively discharge their duties.³⁴ The national Government has the obligation to regulate the activities of local governments, to monitor and control their performance in order to ensure that they comply with international human rights obligations.³⁵ Clear lines of responsibility of the different levels of government are crucial to avoid confusion, gaps and inefficiency.

3. Involvement of non-State actors

49. Often, a range of actors is involved in actual service delivery. While, in many instances, municipalities act as service providers, they may also delegate service provision to non-State actors, including companies and non-governmental organizations. In yet other instances, informal service provision prevails, with a range of different actors involved who fill a gap, but have not been formally mandated by the State authorities to provide services. Moreover, there is a great variety in the types of services provided, ranging from networked

³² Clarissa Brocklehurst, “Sanitation and Water for All: a global framework for action”, presentation at the 2010 Global High Level Meeting, Addis Ababa, 21 November 2010. Available from www.sanitationandwaterforall.org/files/Annex_11_HLM_Presentation_SWA_SC_Meeting_Nov21_2010.pptx.

³³ Para. v. Available from www.sacosan4k.org/download/cr_cmb_declaration.pdf.

³⁴ Committee on Economic, Social and Cultural Rights, general comment No. 15, para. 51.

³⁵ International Council on Human Rights Policy, *Local Government and Human Rights: Doing Good Service* (Versoix, 2005), pp. 20 and 24.

supply to small-scale sanitation solutions. These different set-ups have significant implications for planning and change the nature of activities to be designated to the different actors involved.

50. States must ensure that the involvement of non-State actors does not result in human rights violations. They need to regulate service providers to ensure that they carry out their activities in line with human rights standards and principles. Thus, when service provision is delegated, the role of the State shifts to that of a regulator, without prejudice to the equal significance of regulation in the case of public service provision. The State must create the enabling environment, outline which actors are responsible for service provision in which area, plan for its role as regulator and foresee the necessary resources for regulatory measures.

4. The role of donors and development partners

51. Any national strategy and plan must be owned by the country. Processes that are entirely externally driven can circumvent democratic procedures and often result in merely cosmetic strategies and plans, which are not sustainable and often do not correspond to the people's needs and aspirations. There is, however, a significant role for donors and development partners in the planning process. For instance, they can facilitate coordination and support capacity-building and institutional strengthening, including at the local level. These measures will help institutions to fulfil their responsibilities and to be accountable to the population.

C. Ensuring adequate financing

52. Successful planning and its implementation depend on adequate and predictable financing. Without the necessary financial resources, planning and target setting is meaningless. The relationship between the plan and the budget is therefore of enormous significance. States should determine the budgetary implications of the foreseen activities and allocate sufficient financial and human resources to implement them. Adequate financing relates not only to service provision, but also to the costs of regulatory measures, strengthening institutional capacity as well as the planning exercise itself. Adequate financing and capacity-building is particularly pertinent for local authorities in the context of decentralization. Ensuring resources for the local level can include allocations from the central Government, as well as support for the revenue-raising authority of local authorities.

53. The work of the institutions involved, at all levels, and the coordination body should be adequately staffed both in terms of numbers and expertise. Likewise, resources should be available to carry out participatory processes and to adopt measures to ensure transparency.

54. In the end, the financing system must be one that enables plans and strategies to be implemented, with States using the maximum of available resources for the realization of the rights to water and to sanitation, including in times of economic crisis. Adequate financing must ensure that water and sanitation systems are sustainable, and that services are affordable to everyone.

1. Overview on financing in the sectors

55. Financing in the water and sanitation sectors is very complex; determining whether it is adequate requires a full picture of the different sources. Broadly speaking, the revenue can consist of "tariffs, taxes and transfers". On the expenditure side, it is essential to look at capital investments as well as operation and maintenance. Revenues and expenditures are

split between the national and local levels of Government, depending on the designation of revenue-raising authority and responsibilities for implementation.

56. Tariffs make up an important component in financing water and sanitation services. However, other individual contributions must also be considered. As far as piped water and sewerage systems are concerned, connection fees are common, and when relying on other forms of sanitation, such as pit latrines, the hardware as well as operation and maintenance - such as pit-emptying and disposal of faecal sludge - are commonly paid for by the users.

57. The human rights framework makes the extent to which revenue may be raised from tariffs dependent on what is affordable for the users. Subsidies play a crucial role in ensuring affordability when needed. Income support measures are one type of subsidy related to welfare systems and social assistance programmes. Some countries, such as Chile, use such general subsidies that operate on a means-testing basis. Tariff adjustment measures such as cross-subsidies can be incorporated into the tariff structure to lower the tariffs paid by low-income households for water or sewerage service provision, but only function if there is a sufficient number of better-off and paying households.

58. To gain a complete and reliable understanding of available financing, budget projections need to include anticipated revenue received from water tariffs and other charges for water and sanitation services. If revenue from tariffs does not cover all related costs, funds will need to come out of the general budgets at the national, subnational and/or local levels. General revenue is relevant both for capital investments and for subsidies that are not contained within the tariff system.

59. Often budgets are allocated along administrative lines corresponding to different ministries and departments. Due to the fragmented nature of responsibilities for water and sanitation, it is difficult to obtain a complete picture of resources for the sectors when these are combined with other budgets such as health. Moreover, in particular for rural sanitation, “off-budget” allocations are very common.³⁶

60. A functional classification of the national budget would help to overcome some challenges. Such a classification would include all budgeting items that are going into the water and sanitation sectors across the different ministries and departments. In Nepal, civil society advocacy has been successful in securing a separate budget line for sanitation.³⁷ A consolidated budget goes a step further by bringing in items that are not part of the central operating budget, such as the budget of separate, self-sustaining entities, for instance the regulatory authorities in some countries; budgets of subnational governments; and donor contributions, and thus provides a complete picture.

61. The same classification and comprehensiveness would be necessary for the local budget. This will often include transfers from the national to the local level. These transfers can take the form of conditional grants or block grants. Conditional grants are to be spent for specific purposes (for example water infrastructure), whereas block (or unconditional) grants are not intended to be used for a specific sector or project, but local government may decide to spend it on water and sanitation. Such transfers from the national to the local level should take account of regional disparities in terms of resources. If the national Government adopts a system of transfers, in accordance with human rights criteria it must ensure non-discriminatory distribution, including making additional resources available to regions with disadvantaged populations. Without such specific attention, Government transfers might widen regional differences and perpetuate discrimination. Furthermore, it is

³⁶ UN-Water and WHO, *GLAAS 2010* (note 9 above), p. 43.

³⁷ WaterAid, *Budget Advocacy for the Water and Sanitation Sector in Nepal: A Primer for Civil Society Organizations* (2010), p. 37.

also crucial to ensure that such transfers are well targeted and used at the local level to support access to water and sanitation by those who are the most disadvantaged and neglected, with no access to services, rather than only improving service for those already connected. However, criteria for targeting funds have not yet been developed in many countries, and if they exist they are not necessarily applied consistently. Some countries, such as Cambodia and Mongolia, present notable exceptions, in particular in relation to urban water supply.³⁸ In the United States of America, the Rural Development agency run by the Rural Development agency of the Department of Agriculture makes loans and grants to small municipalities. Consideration is given to the maximum amount that a community can afford while maintaining reasonable user fees in determining the appropriate mix between loans and grants.³⁹

62. Finally, international assistance often contributes to financing with external transfers. Donor policies must integrate the human rights to water and to sanitation and support national priorities regarding water and sanitation, as well as targets to reduce disparities in access. For instance, the Spanish Agency for International Development Cooperation has prioritized water and sanitation, launching a Water and Sanitation Fund of one billion Euros in 2009, with the specific purpose of contributing to the realization of the human right to water and improving policies and planning processes.⁴⁰ Generally, international assistance contributes to financing at the national level (which can then be transferred to the local level), but in some countries local governments are also authorized to receive international grants and loans directly. While this may open up new opportunities, it may also reinforce the risk of disparity between municipalities.⁴¹ It also increases the need for capacity-strengthening at the local level in dealing with public and private funding institutions.

2. Allocation to the maximum of available resources

63. Strategies and plans must be developed taking into account the overall expenditure framework, since planning will not achieve its stated goals if it is not situated within the context of available resources. The projected costs of planned activities must be determined. In deciding on the appropriate measures, policymakers, with the participation of all concerned stakeholders and communities, should consider innovative approaches and solutions that can bring the envisaged results, while being less expensive than conventional approaches and technologies. For instance, Community-led Total Sanitation has achieved impressive results in increasing access to sanitation as a low-cost solution.⁴²

64. Determining the costs of service provision should cover not only capital expenditures for infrastructure, but also costs associated with the life cycle of the system, including operation and maintenance, labour and managerial costs. Additionally, expenditure for on-site sanitation should be taken into account, but as it occurs mostly at the household level, it is difficult to quantify. UNDP is undertaking interesting work on costing, such as its development of the Millennium Development Goals needs assessment model. This model, which integrates the rights to water and to sanitation, provides a framework for national Governments to assess the costs of reaching the water and sanitation targets over the period to 2015.

³⁸ UN-Water and WHO, *GLAAS 2010* (note 9 above), p. 34.

³⁹ See www.rurdev.usda.gov/hi/Rural%20Utilities%20Programs.htm.

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See http://www.aecid.es/web/es/aecid/normativa/fondos/Fondo_de_Cooperacion_para_Agua_y_Saneamiento/003.html.

⁴¹ International Council on Human Rights Policy, *Local Government* (note 35 above), p. 45.

⁴² For an analysis of the Community-led Total Sanitation approach, see the compilation of good practices (A/HRC/18/33/Add.1).

65. The obligation to fulfil economic, social and cultural rights requires taking steps to the maximum of available resources. There has been much recent scholarship and a number of tools have been developed on assessing whether States are deploying the maximum of available resources towards guaranteeing human rights. One approach is to compare current budget allocations to past efforts to evaluate whether efforts have progressed, stagnated or regressed. A decrease would prima facie raise concerns. If past allocations to the sectors are evidently insufficient, a slight incremental increase based on yearly adjustments may not be sufficient, and a reallocation of funds would need to be considered. Another approach is a comparison between similarly situated countries. Such tools are not meant to provide definite answers on the use of maximum available resources, but can be used to prompt further inquiries. A decrease in the budget could be justified, for instance, when resources are used more efficiently and allocated to the most vulnerable and marginalized, or when economic conditions change, as long as the decrease is based on the most careful consideration and can be justified by reference to the totality of rights.

66. Budget allocations should be made based on the projected costs of envisaged activities that go to the maximum of what is attainable with the given resources, to realize the plan. Necessary resources must be allocated to the appropriate authorities that are intended to carry out the activities, for instance when delegated to the local level.

3. Expenditure tracking

67. Apart from assessing budget allocations from a human rights perspective, it is also essential to track expenditures, that is, determine whether the allocated budget has been utilized. If the projected budget has not been spent, this can indicate capacity problems. Such under-expenditure could be justified, though, with efficiency gains, that is, when the envisaged results have been achieved with fewer resources. Likewise, it will be important to track whether the resources have been spent in line with the priorities identified in the plan, and where this is not the case, to ascertain the reasons. These could relate to lack of capacity to spend resources, corrupt practices or other explanations.

D. Participation and transparency

68. Any plan for the realization of the rights to water and to sanitation must be developed through a participatory and transparent process. Systematic participation is crucial in every phase of the planning cycle, from diagnosis through target setting and the formulation of responses and implementation to monitoring and evaluation. Sanitation, in particular, cannot just be delivered, but requires behavioural change, which can be achieved only through the active involvement of interested beneficiaries. Opportunities for participation, including community needs assessments, must be established as early as possible.

69. Participation must be active, free and meaningful. It must go beyond mere information-sharing and superficial consultation, and involve people in decision-making, providing real opportunities to influence the planning process. The organization of a truly participatory process is challenging. Different mechanisms and approaches will be required, including consultations with various stakeholders, public meetings and hearings as well as the opportunity to submit written comments and feedback.

70. Groups that should have opportunities to participate include civil society organizations, community-based organizations, national human rights institutions, academia and research institutions, the private sector and above all the communities and people concerned themselves, with a special emphasis on women's input. Disadvantaged and at-risk people and communities must be represented, to ensure that participation is not only for a few well-established non-governmental organizations or local elites. Meetings

should reach out to people at all levels of society, taking into account constraints that might prevent them from attending. This would mean organizing meetings close to where people live, or work, in all regions of the country, organizing meetings during hours when people are available, using local languages, organizing parent- and child-friendly meetings, using organizations of which people are already members as platforms for undertaking such meetings and other measures, among other channels. The National Human Development Initiative launched in Morocco in 2005 provides an example of a participatory, bottom-up and integrated approach. It resulted in the formal and real involvement of communities, civil society at the local level, and the integration of all local political, economic and social agents in a single process.⁴³

71. Certain parts of the planning process will require technical expertise. However, these inputs must be balanced with the needs and preferences of people across the country, taking into account local solutions. The authorities leading the planning process must be accountable for seriously considering the various contributions and designing and implementing the necessary measures conducive to ensuring the rights to water and to sanitation for everyone.

72. Transparency and access to information are essential for enabling participation. Relevant information and drafts of the plan should be made publicly available. Transparency is also needed regarding existing policies and measures. Only when, for instance, current priorities in the allocation of resources are understood can these be scrutinized and assessed for eventual necessary changes. Information should be widely disseminated and made available in all relevant languages via multiple channels to ensure accessibility. This can include websites, but also local radio, billboards and information in the local press. In India, for instance, right to information legislation⁴⁴ has had a significant impact on improving transparency by providing a tool to seek information and demand accountability from governments.

E. Non-discrimination and equality

73. Access to water and sanitation is characterized by great disparities, which often amount to discrimination prohibited by human rights law.⁴⁵ To overcome existing discrimination, States must develop specific strategies to correct the situation of those who face that discrimination. Without this specific focus, interventions in water and sanitation tend to improve access only or primarily for those who are relatively easy to reach, and risk reinforcing existing inequalities.

74. The overall targets on increasing access to water and sanitation must therefore be complemented by targets to reduce inequalities. As a first step, this requires States to identify vulnerable and marginalized populations, patterns of discrimination, and their underlying structural causes. In terms of access to water and sanitation, groups and individuals who have been identified as potentially vulnerable or marginalized include, inter alia, women, children, inhabitants of rural and deprived urban areas and others living in poverty, nomadic and traveller communities, refugees, migrants, people belonging to

⁴³ See www.indh.gov.ma/fr/index.asp.

⁴⁴ India, Right to Information Act of 2005. Available from <http://righttoinformation.gov.in/rti-act.pdf>.

⁴⁵ Committee on Economic, Social and Cultural Rights, general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights, para. 7. Discrimination can be understood as “any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing” of human rights.

ethnic or racial minorities, elderly people, indigenous groups, persons living with disabilities, people living in water-scarce regions and persons living with HIV/AIDS.

75. Not all prohibited grounds of discrimination will be relevant in all States. In the process of identifying groups and individuals who are disadvantaged, States need to survey the population based on these grounds and investigate further when they find that certain groups are discriminated against. While, for instance, gender-based discrimination or disparities between formal and informal settlements will be a common issue in many countries, identifying and addressing other forms of discrimination will require a more contextualized approach.

76. For example, the planning process for the Rights-based Development Strategy 2006-2013 of the Kiseljak municipality in Bosnia and Herzegovina aimed at the identification of development priorities in terms of human rights, and included an assessment of the water infrastructure in the municipality. As the assessment showed that the situation was most severe in the Hrastovi settlement, inhabited mostly by Roma, the municipality prioritized improving the infrastructure there.⁴⁶

77. Based on their assessments, States must specifically monitor progress within the identified populations that are likely to be discriminated against in order to address systematic exclusion. They must develop tailored interventions for their specific circumstances, including potentially setting separate targets for these groups. Specific strategies to reach those most in need will be necessary to overcome legal, economic, physical, institutional, cultural, linguistic and other barriers.

78. The Zambian Devolution Trust Fund, for example, conducted a baseline study⁴⁷ collecting data on water and sanitation disaggregated by, among other things, urban and rural area and income level. Based on these findings, Zambia specifically targets low-income areas through the promotion of low-cost technology, such as water kiosks with the tariffs set at the lowest band. Complementary to cross-subsidization through the tariff structure, the construction of infrastructure in urban low-income areas is financed through the Trust Fund.⁴⁸

79. In their monitoring activities, States must specifically pay attention and report on the measures taken to reach the most disadvantaged and excluded. They must also include information on the programmes and resources specifically devoted to these purposes; that is, disaggregated data is not only necessary at the level of outcome, but likewise in measuring Government efforts, for instance, to determine whether resources have been increased to reach people living in slums. The Tanzania Water and Sanitation Network monitors equity in the sector through annually published equity reports focusing on the inclusion, accountability, participation and sustainability of policies. It found considerable equity fault lines in the water sector of the United Republic of Tanzania, for example, a gap between access in rural and urban areas and disproportionately high budgets for urban services.

⁴⁶ Kiseljak Municipality, Rights-based Development Strategy, pp. 27, 28 and 68. Available from www.rmap.undp.ba/Upload/SC/kiseljak%20strategy_26Oct_eng.pdf.

⁴⁷ Zambia, Devolution Trust Fund and National Water Supply and Sanitation Council, *Reaching the Millennium Development Goals for Water Supply and Sanitation in Zambia: The Urban Perspective* (Lusaka, 2005). Available from www.nwasco.org.zm/media/mdg.pdf.

⁴⁸ Lammerding et al., "All Inclusive?", (note 29 above), p. 6.

V. Conclusions and recommendations: how the human rights framework helps to improve planning

A. Providing a framework for prioritization

80. The full realization of human rights can require complex trade-offs that are even more difficult in situations of economic crisis. Having a plan or a vision guided by a human rights framework helps authorities to prioritize the realization of human rights above other considerations. Yet, a human rights framework provides no single answer on how to set priorities in a case where not all can be reached at the same time – for instance the distribution of resources between neglected remote rural areas and deprived urban slum areas. What human rights standards and principles call for is that such allocation decisions are not based solely on a cost-utility analysis, but are the result of a democratic, participatory and non-discriminatory process. In this regard:

(a) States must mainstream the human rights to water and to sanitation into existing strategies in other fields in order to ensure coherent planning;

(b) States must also develop specific strategies and plans for the water and sanitation sectors to ensure that these issues are accorded sufficient priority and that their specificities are taken into account;

(c) Where strategies and/or plans for the water and sanitation sectors are already in place, States should re-examine these, and revise and align them with human rights standards and principles as necessary;

(d) States must first aim at basic access for everyone and then move progressively towards higher levels of service;

(e) States must devise specific strategies to address discrimination and reach the most disadvantaged. They must identify vulnerable and marginalized populations, patterns of discrimination, and their underlying structural causes by, inter alia, collecting disaggregated data. They must set specific targets to reduce inequalities in access, develop tailored interventions for specific circumstances and specifically monitor progress for these groups;

(f) Donor policies should support these national priorities, moving from basic access to higher levels of service and reducing disparities;

(g) Where transfers from the national to the local level are made, national Governments must adopt a system of transfers that ensures equitable distribution and makes additional resources available to regions with disadvantaged populations and prioritizes those without access.

B. Providing a framework for ambitious, but realistic planning

81. Human rights law provides a framework for ambitious, but realistic planning. While the ultimate goal must be universal coverage, the notion of progressive realization tailors this goal to the country situation and allows for the time frame that proves to be realistic in a given context. States must go to the maximum of available resources in the realization of the rights to water and to sanitation, turning to international assistance where needed. Progressive realization also implies gradually higher levels of service. In line with this:

(a) States must base the development of a strategy and plan for the implementation of the rights to water and to sanitation on a robust situational analysis of the current status in the realization of these rights based on the normative criteria of availability, quality, acceptability, accessibility and affordability. They must pay particular attention to marginalized and vulnerable groups to determine their levels of access, specific barriers they may face in gaining access and the underlying reasons behind those barriers;

(b) States should also undertake an assessment of existing policies, programmes and activities, determine what resources are allocated, and identify the actors involved and assess their capacity;

(c) States should set clear targets, in line with human rights standards, that are based on a realistic assessment of resources and capacity;

(d) States should formulate and design the necessary measures to meet the set targets;

(e) States must ensure financing to the maximum of available resources for the implementation of the rights to water and to sanitation. Adequate financing must ensure that water and sanitation systems are sustainable, while services are affordable to everyone;

(f) States should determine the budgetary implications of the envisaged activities and allocate sufficient financial and human resources to implement those activities, including resources for regulatory activities.

C. Ensuring sustainability

82. The human rights framework requires a coherent and comprehensive approach to planning that emphasizes the underlying structural causes and systemic biases for the lack of access to water and sanitation. It requires considering how laws, social norms, traditional practices and institutional structures and actions affect access. As such, the human rights framework helps to not only cure the symptoms, that is, the lack of access, but aims at addressing the underlying reasons, leading to more sustainable results. In this regard:

(a) States should ensure the sustainability of investments by not only focusing on infrastructure, but also ensuring operation and maintenance, the institutional and managerial structure, including regulation, and structural measures, including increasing capacity;

(b) Strategies and plans must be developed through a participatory and inclusive process ensuring, in particular, that disadvantaged, marginalized and vulnerable people and communities are represented. Participation must go beyond mere information sharing and superficial consultation, and provide real opportunities for influence throughout the planning process;

(c) States must ensure transparency throughout the planning process, making relevant information, including on existing policies and measures, and expert advice on available technical options, as well as drafts of the plan, publicly available in all relevant languages via multiple channels to ensure accessibility.

D. Emphasizing accountability

83. The human rights framework puts a strong emphasis on accountability. Legal frameworks provide the basis for accountability by allowing people to base their claims on legally binding entitlements. These should be complemented by targets backed by relevant and reliable data and reflecting State commitment for which Governments can be held accountable. In this regard:

(a) States must review existing legislation to detect gaps and to assess whether the existing legislative framework is in line with the rights to water and to sanitation. Where legislation is found to be inconsistent, it must be repealed, amended or adapted to meet human rights standards and principles;

(b) Laws and regulations should provide clear definitions of standards for service delivery, covering the normative dimensions of availability, quality, acceptability, accessibility and affordability;

(c) States should clearly identify and designate the ministry or ministries and department(s) responsible for the planning process and implementation, including a coordination body;

(d) Where service provision is decentralized, the State must set minimum standards at the national level in order to ensure coherence and countrywide compliance with human rights. As part of the State, local authorities are also bound by human rights law. States must regulate the activities of local governments, and monitor and control their performance in order to ensure that they comply with international human rights obligations. Moreover, States must ensure that these authorities have the necessary financial, human and other resources to effectively discharge their responsibilities. Clear allocation of responsibilities between levels of government is crucial;

(e) International organizations and donor agencies should support strong national planning processes through initiatives, such as Sanitation and Water for All, that help to overcome capacity constraints, but should not drive the process. They should support the coordination process, capacity-building and institutional strengthening, including at the local level, to ensure that institutions can properly fulfil their responsibilities and are accountable to the population, including with regard to preventing and fighting corruption;

(f) States should build arrangements for monitoring and evaluation into the strategy and plan from the outset;

(g) To enable monitoring, States should develop indicators reflecting the human rights criteria of the availability, quality, acceptability, accessibility and affordability of water and sanitation. Such indicators should be designed not only to measure the outcome in terms of access figures, but also capture the progress made and Government efforts. States should make better use of existing data and, where lack of relevant and reliable data provides a constraint, States should strengthen their capacity;

(h) States must put into place mechanisms and remedies to hold the relevant actors accountable for following the plan and achieving the targets it has set;

(i) States must implement measures to overcome obstacles in access to justice, such as prohibitive costs, language requirements, requirements of representation and geographic location of the courts and other mechanisms.