

STATE OF THE RIGHT TO WATER AND SANITATION

Urban and peri-urban areas of the Asia-Pacific Region

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1. INTRODUCTION

1.1 The water and sanitation challenge

Over 1.1 billion individuals lack access to a basic supply of water from a clean source likely to be safe and over 2.6 billion persons lack access to adequate sanitation facilities, a primary cause of water contamination and diseases linked to water.

As these figures do not take into account a number of obstacles such as the inability to pay for access, the true figure for lack of access is much higher. There is sufficient clean freshwater in the world for everyone's essential personal and domestic needs. However, lack of distribution networks and working systems to extract groundwater or harvest rainwater; exclusion from these services or facilities; inequitable allocation of water resources; and pollution limit people's access to sufficient clean water. In some cases excessive extraction and contamination of groundwater limit domestic use and threaten long-term use.

In urban areas, low-income groups - particularly those living in informal settlements - often lack access to adequate water supply and sanitation. Piped water supplies and sewers seldom cover informal areas, which means that people living there access water from a variety of generally inadequate water supply options, such as wells built close to latrines or from small-scale water providers, such as door-to-door water vendors, whose water supplies may not be of good quality.

Sanitation in most countries is severely neglected by both governments and households. The number of toilets per inhabitant is generally inadequate, with no guarantee that they are hygienic to use. Because of the lack of sanitation at a household level (or, in many cases, at any level), many people will use plastic bags, streets or other unhygienic places for defecation.

The lack of access to water and sanitation has a severe effect on human health, exacerbates poverty and undermines economic development. It is estimated that at any one time nearly half the population of developing countries is suffering from health problems linked to inadequate water and sanitation. Approximately 4 billion cases of diarrhoea each year cause 2.2 million deaths, mostly among children under five – about 15 percent of all deaths of children under the age of five in developing countries. Lack of access to water and sanitation undermines economic and social development, due to the costs of disease, the unequal burden on women and children and the high costs of accessing water (in terms of time and money) that reduce people's ability to secure other essential goods. Water shortages and unreliable access to water can reduce crop production and livestock health and can undermine the viability of businesses run by poor women and men, including home-based activities. In addition, without sufficient water, the ecosystem, for example the proper growth of trees and other flora necessary to prevent soil erosion, cannot be supported. The current water and sanitation crisis is caused by issues related to poverty, inequality and unequal power relationships.

Water and sanitation policies and programmes all too often exclude marginalised groups and areas such as informal settlements and arid areas. Nationally and internationally, the allocation of resources to water and sanitation is insufficient. The lack of access is exacerbated by a challenging social and environment context: accelerating urbanisation, increasing pollution and depletion of water resources and climate change. In addition, institutional changes, such as shifts in land ownership, decentralisation and delegation of responsibilities for public services are in some circumstances reducing the accessibility of water and sanitation.

1.2 Overview of the human right to water and sanitation

The right to water and sanitation comprises the following:

Sufficient water: Water supply for each person that is sufficient and continuous for personal and domestic uses, which normally include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene.

Clean water: Safe water that in particular, is free from hazardous substances that could endanger human health, and whose colour, odour and taste are acceptable to users.

Accessible water and sanitation: Water and sanitation services and facilities are accessible within, or in the immediate vicinity, of each household, educational institution and workplace. Sanitation is safe, adequate and conducive to the protection of public health and the environment.

Affordable water and sanitation: Water and sanitation can be secured without reducing any person's capacity to acquire other essential goods and services, including food, housing, health services and education.

Non-discrimination and inclusion of vulnerable and marginalised groups: There is no distinction based on grounds such as race or colour which leads to unequal access to water and sanitation. Non-discrimination also includes proactive measures to ensure that the particular needs of vulnerable or marginalised groups are met

Access to information and participation: All people have the right to participate in decision-making processes that may affect their rights. All people are given full and equal access to information concerning water, sanitation and the environment.

Accountability: Persons or groups denied their right to water and sanitation have access to effective judicial or other appropriate remedies, for example courts, national ombudspersons or human right commissions.

International human rights standards indicate that available resources need to be utilised effectively in order to realise the right progressively within the shortest possible timeframe and that certain steps require immediate implementation, such as the obligation to take steps to realise the right and to avoid discrimination.

When implemented, the right to water and sanitation can make the following contributions:

- **Improved accountability:** It establishes access to water and sanitation as a legal entitlement, which provides a basis for individuals and groups to hold governments and other actors to account. It also provides a basis for actors within government to hold each other accountable to the objective of realising the right.
- **Focus on vulnerable and marginalised groups:** Focuses on the need to prioritise access to basic water and sanitation services to all, including those who are normally excluded.
- **Increased participation in decision-making:** Provides for genuine participation of communities in decision-making on water and sanitation.
- **Individual and community empowerment:** Strengthens individual and community struggles for access to basic services. It is important, however, to have realistic expectations and to take account of the limitations of the right to water and sanitation: The right alone is not going to solve the water and sanitation crisis: The right needs to be used in conjunction with other development strategies.
- **Limited justiciability:** Not all judiciaries are willing to decide cases involving social rights. However, recourse to the courts is only one of several means to implement the right.
- **Misunderstandings of the right:** The right is often not well understood, and thus requires significant levels of training and education.

1.3 Legal basis and institutional framework for the right to water and sanitation

The right to water and sanitation is implicit in the right to an adequate standard of living included in the International Covenant on Economic, Social and Cultural Rights, a treaty ratified by 117 States (as of October 2007). In 1994, at the International Cairo Conference on Population and Development, States stated that the right to an adequate standard of living included adequate water and sanitation. Entitlements to water and sanitation are also found in widely ratified treaties such as the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). A number of international political declarations by the Non-Aligned Movement, the Council of Europe and the UN General Assembly recognise the right to water. Regional human rights treaties in Africa, the Americas and Europe explicitly or implicitly provide for the right to water and sanitation.

National recognition of the right to water and sanitation is growing. At least twenty-four countries now recognise the right to water in their constitutions and laws. Six of these recognise the right to water and sanitation. Many countries recognise other human rights, such as the right to health, non-discrimination, life and to a healthy environment, which require provision of access to safe water and sanitation.

In the section 2, a detailed case study on the right to water and sanitation in Lao PDR is followed. Country specific factsheets on the right to water and sanitation in Asian countries are presented in the section 3.

2. CASE STUDY: ENTRY POINTS FOR RIGHTS-BASED APPROACHES TO WATER AND SANITATION IN THE LAW AND POLICY OF LAO PDR PREPARED BY CENTRE ON HOUSING RIGHTS AND EVICTION (COHRE) ON 2008

2.1 Introduction

This study evaluates the extent to which Lao PDR has included elements of rights-based approaches to water and sanitation (RBAs) in its legal and policy framework, and the extent to which these have strengthened water and sanitation service provision in Lao PDR through:

- An analysis of national legislation, policies and institutions from the perspective of rights-based approaches to water and sanitation.
- The extent to which rights-based approaches have been implemented in practice and whether they have enhanced water and sanitation service provision.

The study is based on a combination of field missions, interviews with practitioners and a review of laws, policies and secondary materials. The study evaluates progress guided by the following key elements of the right to water and sanitation:

- Non-discrimination and attention to vulnerable and marginalised groups
- Participation and access to information
- Water availability and allocation
- Physical accessibility of water and sanitation
- Affordability of water and sanitation

The purpose of this study is to provide initial recommendations for potential ways forward in order to promote the inclusion of rights-based approaches to water and sanitation in the regulatory framework governing water and sanitation service provision in Lao PDR.

2.2 Review of country framework and practical implementation

2.2.1 Legal and institutional framework

2.2.1.1 Legal framework

International law

Lao PDR has been a strong supporter of the right to water and sanitation at the international level, where Lao PDR endorsed the RTWS in several key instruments, including the Programme of Action unanimously adopted by all 177 States participating in the 1994 Cairo International Conference on Population and Development¹ and the 1996 Habitat Agenda,² adopted by consensus of all 171 States represented at the Second United Nations Conference on Human Settlements (Habitat II) held in Istanbul in 1996. In 2007, Lao PDR also ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 11(1) ICESCR guaranteeing everyone the right to an adequate standard of living is generally considered the central legal basis for the right to water and sanitation in international human rights treaties.³ Most recently, at the 1st Asia-Pacific held in Beppu, Japan, in December 2007, Lao PDR, along with 36 other States from the Asia-Pacific region, including neighbouring countries Thailand, China, Cambodia and Myanmar, adopted the “Message from Beppu”, which recognises “people’s right to safe drinking water and basic sanitation as a basic human right and a fundamental aspect of human security.”⁴

The Constitution of the Lao People’s Democratic Republic

The 1991 Constitution of the Lao People’s Democratic Republic does not include explicit provisions with regard to the right to water and sanitation. The Constitution stipulates in article 17 that “All organisations and citizens must protect the environment and natural resources: land, underground, forests, fauna, **water sources** and atmosphere.”

The 1996 Water and Water Resources Law⁵

According to its article 1, the Water and Water Resources Law provides principles, regulations and measures governing the management, exploitation, development and use of water and water resources within Lao PDR, with the aim to protect and sustain water resources and water particularly with regard to the assurance of water in sufficient quantity and of sufficient quality to satisfy the national needs in terms of domestic, agricultural and industrial uses and the uses of other sectors in a manner that is consistent with the protection of the natural environment. Article 4 provides that water and water resources are the property of the people of Lao PDR as a whole and that the government acts on behalf of the people to manage and to evenly and equitably share the uses of water. Article 14 on the right to the use of water and water resources stipulates that individuals, communities and organizations have the right to use water and water resources for family domestic or business purposes. According to article 15, family domestic uses and community requirements fall under the category of small-scale uses, which will always be permitted, unless restrictions by responsible Ministries or Local Authorities apply. Article 29 states the obligation of individuals and organizations to protect water and water resources. Article 30 provides that the government shall establish water and water resources protection zones in order to ensure adequate supplies of water of sufficient quality to serve the drinking and domestic needs of people in both urban and rural areas.

¹ See Principle 2 of the Report of the International Conference on Population and Development, UN Doc. A/CONF.171/13, 18 October 1994, available at: <http://www.un.org/popin/icpd/conference/offeng/poa.html>.

² See Principle 11 of The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action, available at: <http://www.unhabitat.org/content.asp?ID=1176&catid=10&typeid=24&subMenuId=0>.

³ See United Nations Committee on Economic, Social and Cultural Rights, *General Comment No. 15, The right to water* (2002), U.N. Doc. E/C.12/2002/11 (2003).

⁴ The Message from Beppu as well as a full list of participants is available at: <http://www.apwf.org/>.

⁵ Law No, 02 of 11/10/1996.

Draft Law on Water Supply

Article 1 of the current draft Law on Water Supply addressing the purpose of the new law stipulates that “The Water Supply Law sets all principles, rules, and measures about the management, construction and installation of water supply systems for the purpose of encouraging the production and supply of water of guaranteed quantity and quality for use by the multi-ethnic people and all social strata such that this will contribute to national socio-economic development and improve the people’s quality of life.” Importantly, thus, the draft Law on Water Supply establishes a clear priority for basic human water needs.⁶ What is not entirely clear, however, is in how far the new law is supposed to also apply to sanitation. While sanitation services, wastewater services and basic sanitation are defined in article 3, the issue of sanitation is not addressed in the remainder of the current draft, with the notable exception of article 37 (5) and (6), which stipulates users’ obligations related to sanitation in order to prevent the contamination of water sources. Another notable feature of the current draft Law on Water Supply is its strong emphasis on the financial aspects of water supply, including the promotion of domestic and foreign investment in water supply (articles 6 and 9). An over-emphasis on these aspects carries the risk of water being seen primarily as an economic commodity, and not a social and cultural good.

The current draft Law on Water Supply will be discussed in more detail under the relevant subcategories.

2.2.1.2 Main institutions involved in water and sanitation services in Lao PDR:7

At national level:

The responsibilities for urban and rural water supply fall within the remit of two Ministries: the Ministry of Public Works and Transport (MPWT) and the Ministry of Health (MoH) respectively. MPWT is also the national agency responsible for urban sanitation country-wide. Through Nam Saat, a community development unit, MoH is also responsible for the promotion of sanitation in rural areas and the promotion of environmental hygiene in both urban and rural areas. While there is a national rural water and sanitation sector strategy, there is no national strategy for urban water supply.

Ministry of Public Works and Transport (MPWT)

The MPWT has overall all responsibility for water and wastewater management systems in urban areas throughout the country. MPWT is also responsible for broader water management issues such as protection of river banks and flood prevention and control.

Note that the government is planning to transfer responsibility for rural water supply and sanitation from the Ministry of Health to MPWT.

Department of Housing and Urban Planning (DHUP)

⁶ See also article 14 (8)

⁷ Main source of data: WASA, DHUP, URI, *Small Towns Water Supply and Sanitation Initiative in Lao PDR*, April 2002

DHUP is under the Ministry of Public Works and Transport (MPWT) and assists the Minister of MPWT in the state administration of the water supply sector. The Division of Water Supply (WSD) and the Water Supply Authority (WASA) are under DHUP.

Division of Water Supply (WSD)

WSD is responsible for preparation of policies, laws and other legislations as well as urban water supply and sanitation sector strategies, plans and priorities and development targets. WSD has also the tasks to prepare technical guidelines and standards related to water supply and sanitation in urban areas.

Water Supply Authority (WASA)

WASA is the regulating authority for the urban water supply and wastewater sector in Lao PDR. In its regulatory capacity, WASA is responsible for making sure that suppliers carry out their responsibilities as set out in their licences, legislation and regulation; protecting the standard of service customers receive; encouraging suppliers to become more efficient; encouraging competition in the sector where appropriate; and ensuring that suppliers carry out their activities in an environmentally sustainable manner. WASA also compares the performance of suppliers helping poor performers rise to the standards of the best. In accordance with Decree No 191/PM (2005) on Regulation of Urban Water Supply Operations, WASA has developed tariff determination guidelines to assist suppliers develop their tariff structures and levels. In the event of a dispute between a water company and one of its customers that cannot be resolved at a local level, WASA has the power to act as an arbitrator to the dispute. WASA is also in the process of drafting a regulation for complaints procedures (“Guidelines for customer relations and complaints procedures”).

Ministry of Health (MoH)

The MoH has overall responsibility for rural water supply and sanitation as well as and urban and rural environmental hygiene.

Nam Saat (National Centre for Environmental Health and Water Supply)

The mandate of Nam Saat is to facilitate, advise, train and promote rural water supply and sanitation, and urban and rural environmental hygiene, through community-based approaches.

Ministry of Finance (MoF)

The MoF carries out the function of: i) investment support and financial arrangements for all funding into the sector, and ii) financial support in the short- and medium-term to Provincial Nam Papis where commercial targets cannot readily be achieved.

Water Resources Coordinating Committee (WRCC)

The WRCC has responsibilities in the urban water supply sector. It coordinates water and water resource protection to secure sustainable development of water resources, inter alia by regulating the quality of wastewater discharged from urban areas to natural waterways.

Nam Papa Lao (NPL)

Urban water supply throughout Lao PDR was originally the responsibility of a single central state-owned enterprise (SOE), the Nam Papa Lao (NPL).⁸ In 1999, the NPL was disaggregated into 18 (now 17) separate SOEs, the Nam Papa Vientiane (now is Nam Papa Nakhoneluang – is the largest and most experienced water utility in the country, and is specifically responsible for human resource development in the sector – and 17 (now 16) Provincial Nam Papas (PNPs) established in each province. Urban water supply systems in district towns became satellite branches of the PNPs in their respective provinces.

Although not included in the main existing sector regulations, there are several line agencies that are also involved in the sector:

Ministry of Education (MoE)

The MoE coordinates with Nam Saat for the planning and implementation of the School Sanitation Programme and curriculum development.

The Prime Minister's Office (PMO)

The PMO is responsible for inter-agency coordination of all sectors, including water and sanitation. The PMO is also responsible for the line of sub-national coordinating agencies, including provincial governors' offices, district governors' offices and municipal mayors' offices. Each of these agencies is responsible for interagency coordination at its respective level.

At the provincial level

Provincial Governments

A Provincial Governor has overall responsibility for all public affairs in a Province. The Governor and the Vice-Governor supervise and monitor the functions and operations of the Provincial branches of the central line ministries.

Department of Public Works and Transport (DPWT)

DPWT is the provincial level office under MPWT. Its functions include assisting the provincial authority and the Minister of Public Works and Transport in the state administration of the Public Works and Transport sector. Its responsibilities include setting short, medium and long term strategies for DPWT in the province; planning and implementing DPWT activities, including urban water supply, implementing regulations, standards, technical specifications, and performance indicators for water supply system operations in collaboration with the Department of Housing and Urban Planning and the Water Supply Authority.

Provincial Nam Papas (PNPs)

PNPs are responsible for the management and operation of all water supply systems and development of raw water in urban areas within their respective provincial boundaries, except private sector participation (PSP or PPP) schemes which are operated by the concessionaire concerned under specific concession contract.

⁸ The Lao term Nam Papa translates into English as “piped water”.

The province is the owner of the facilities and the state-owned PNP is the operator. The PNPs have full financial autonomy and can organize their own budgets independently of the government system. They have responsibility for capital investment, for management and operation on commercial principles, and for maintenance and renewal.

Lao Women’s Union (LWM), Lao Youth Union (LYU), Rural Committee for Development (RCD)
LWM, LYU and RCD assist Nam Saat regarding community activities for rural water supply, sanitation and hygiene promotion.

At the district level

There is no formal definition of who is responsible at the district level, although provincial by-laws may exist. However, in principle the respective District Administration is responsible for ensuring that sanitation facilities are managed in accordance with applicable regulations. District Nam Papas, except the private sector participation (PSP or PPP) schemes, are branches of the PNP of the respective provinces, which means they operate within the responsibility of the PNPs. However, when related to rural water supply and sanitation services, the district Nam Saat is the implementing agency supported by the District Health Office, LWU, LYU, and RDC who assist with promotional activities in the communities.

In Laos PDR there are a large number of actors involved in urban and rural water and sanitation service provision at the national, provincial and district levels. In some cases, this has led to fragmentation, overlap and lack of clarity with regard to responsibilities. Greater efforts should be taken to define institutional responsibilities and ensure coordination between responsible government actors.

2.2.2 Non-discrimination and attention to vulnerable and marginalised groups

Non-discrimination and attention to vulnerable and marginalised groups
A rights-based approach to water and sanitation entails that everybody should be ensured access to water and sanitation, including the most vulnerable or marginalised groups, without discrimination. Non-discrimination means that there is no distinction, exclusion, restriction or preference, which is based on any ground (e.g. race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status) that differentiates without legitimate reason. The reference to ‘other status’ implies the inclusion of other grounds that lead to unequal enjoyment of the right to water and sanitation. Discrimination on the basis of ‘social status’ may include residence in remote rural areas and informal settlements, and also refer to people living in under-privileged areas, which can constitute discrimination on the basis of social condition. However, non-discrimination includes more than avoidance of active discrimination against particular groups. It also requires proactive measures to ensure that government policies and programmes provide special attention to addressing the particular needs of vulnerable or marginalised groups.

Lao PDR is characterised by cultural and ethnic diversity. A 2005 Government census recognized 49 main ethnic groups.⁹ A survey carried out by the Lao Front for National Construction lists 19 ethnicities comprising more than 160 subgroups, speaking 82 languages.¹⁰ In Lao PDR all ethnic groups are considered citizens and equal before the Law. Both the Constitution and government policy emphasise the multi-ethnic nature of the State and work to reduce discrimination. The Constitution of the Lao PDR provides in article 8 that “The state pursues the policy of promoting unity and equality among all ethnic groups. All ethnic groups have the rights to protect, preserve and promote the fine customs and cultures of their own tribes and of the nation. All acts of creating division and discrimination among ethnic groups are prohibited. The state implements every measure to gradually develop and upgrade the levels of socio-economy of all ethnic groups.”¹¹ However, non-Lao ethnic people (specifically the slope and mountain dwellers) are underrepresented at all political levels, and those living in remote rural areas, especially mountain areas, have much lower levels of access to water and sanitation facilities than the dominant ethnic group which tends to be concentrated in urban, low land areas, or areas located on major national roads. Whilst Lao PDR's National Socio-Economic Development plan and the NGPES both state their commitment to promoting equity among and the well being of Lao PDR's various ethnic groups, national water and sanitation policies do not adequately address the needs of ethnic minorities, such as including accessibility targets for the most excluded minority groups, which is a key principle in ensuring that water and sanitation services are provided in a non-discriminatory manner. Both the 1996 Water and Water Resources Law and the current draft Law on Water Supply lack provisions which ensure non-discrimination in water and sanitation provision, the inclusion of which would strengthen efforts to address the needs of vulnerable and marginalised groups in water sector policies and practices.

Whilst efforts to reduce gender disparities in Lao PDR have met with some success over the past ten years, a lack of gender equality remains and is evidenced through the low levels of representation of women in leadership positions, low educational enrolment of girls in all levels of education in comparison with boys, and low female representation in waged employment and the non-agricultural sectors.¹² The Government of Lao PDR expresses a strong commitment to ensuring the empowerment and advancement of women. Gender equality is reflected in the Constitution¹³ and in 1981 the Government ratified the Convention on the Elimination of All Forms of Discrimination Against Women. The recent establishment of a National Commission for the Advancement of Women mandated to monitor gender equality and prepare a gender mainstreaming strategy and plan of action is another positive step. The NGPES prioritises gender issues and states that “ensuring equal access to basic services and productive resources is a matter of equity, efficiency and

⁹ Laos Census 2005, www.nsc.gov.la

¹⁰ Water Environmental Partnership in Asia, www.wepa-dl.net

¹¹ *Constitution of the Lao People's Democratic Republic*, Adopted by the 6th Session of the People's Supreme Assembly (2nd Legislatue), Vientiane, 13-15 August 1991.

¹² The Government of the Lao PDR and the United Nations, *Millennium Development Goals Progress Report Laos PDR*, p.24

¹³ Article 24 of the Constitution provides “Citizens of both sexes enjoy equal rights in the political, economic, cultural and social fields and family affairs,” *Constitution of the Lao People's Democratic Republic*, Adopted by the 6th Session of the People's Supreme Assembly (2nd Legislatue), Vientiane, 13-15 August 1991.

effectiveness.”¹⁴ This is an important recognition as in Lao women are primarily responsible for water collection for domestic use, with the assistance of children of both sexes. Therefore a lack of access to water facilities and services has a disproportionate impact on women as the time taken to collect water prevents them from engaging in other productive activities. However, whilst gender is prioritized in the NGPES, no specific gender targets have been set on a national level to achieve equal access to water and sanitation or to increase women’s participation in the design and management of water and sanitation services and facilities.

Women in poor communities and ethnic group women face substantial barriers to full participation in the development process in general and water and sanitation provision in particular. Data suggests, e.g., that only 8.1% of Hmong-Mein women are literate.¹⁵ In practice some positive steps have been made to ensure the inclusion and empowerment of vulnerable and marginalised groups in decision making relating to water and sanitation. One positive example are the Water and Sanitation Units (WATSANs) established in small towns under the Northern and Central Regions Water Supply and Sanitation Sector Project. The WATSANs are locally organized groups that encourage the involvement, participation and contribution of beneficiaries and communities targeted by the project. At least 30 per cent of the representatives of each unit should be women or from ethnic groups. However, a study carried out by the Water and Sanitation Programme for East Asia and the Pacific in rural areas of Lao found significant barriers affecting the ability of vulnerable and marginalized groups to participate in water and sanitation projects. These included the fact that a number of ethnic groups such as the Lao Ko, did not permit their women to communicate with outsiders whilst other groups restricted women’s participation in public affairs and trainings. The fact that a many ethnic groups did not speak or read Lao presented significant obstacles to explaining concepts related to hygiene practices especially in cases where words such as ‘latrines’, ‘cleanliness’ and ‘sanitation’ did not appear to exist in the language of the ethnic group. Women in isolated communities were found not to have ventured more than 10 km outside of their village and did not recognize any pictures of latrines, which contributed to their lack of interest in, and demand for, improvements in sanitation.¹⁶ A lack of women’s participation in decision making relating to water and sanitation may result in women’s water uses being given less priority than men’s and a lack of attention to issues that affect women such as privacy and safety at water points and sanitation facilities. There are therefore significant obstacles to be overcome to ensure the real and meaningful participation of marginalized and vulnerable groups in water and sanitation provision. Greater access to information on water and sanitation in local languages and stronger participatory mechanisms that are gender sensitive would help to mitigate some of these problems.

Provision of water and sanitation in schools is a major factor in improving the health of children and increasing their school attendance. Water sector reforms in Lao PDR have targeted schools for priority in water supply and for the construction of sanitation facilities. The Hygiene, Prevention and Health Promotion Law (2001) provides in Article 16 that schools should have “access to drinking water, water for use and access with hygienic latrines and other facilities”.¹⁷ The NGPES set the

¹⁴ Laos People’s Democratic Republic, *National Growth and Poverty Eradication Strategy*, p.8.

¹⁵ Laos People’s Democratic Republic, *National Growth and Poverty Eradication Strategy*, p.33.

¹⁶ Water and Sanitation Programme East Asia and the Pacific, *Rural poor choose their water and sanitation services in Laos PDR*, (March 1998), p.4.

¹⁷ Laos People’s Democratic Republic, *Hygiene, Prevention and Health Promotion Law*, 10 April 2001.

target of providing 20 percent of primary schools with hygienic latrines between 2003 and 2005¹⁸ and health sector targets seek to increase the proportion of schools having segregated facilities to 35% of the population by 2010.¹⁹ This represents an important step as the current lack of separate sanitation facilities for boys and girls in many educational establishments in Lao has been a factor in discouraging female school attendance, particularly at the secondary and higher levels of education.²⁰ Extending access to water and sanitation in schools and particularly the construction of separate sanitation facilities for girls and boys constitutes an important element of enhancing children’s rights and also assists in the realization of Goal Three, Target Four of the Millennium Development Goals; to eliminate gender disparity in education. There is also a lack of female teachers in Lao, which is in a large part caused by lower levels of female education and participation in the work force, but a lack of adequate sanitation facilities at schools may also be a factor discouraging qualified female staff from working in educational establishments.

Finally, training, as necessary and requested, should be provided for the representatives of marginalised and vulnerable groups in order to ensure that they can participate on an equal footing with other groups and advocate for their entitlements.

2.2.3 Participation and access to information

Participation and access to information
 A rights-based approach to water and sanitation entails that communities and individuals have access to relevant information concerning water and sanitation and related services and are given a genuine opportunity to participate in and influence decision-making processes related to water and sanitation issues affecting them, including decisions on the types of services that they receive or questions related to the conservation of water resources. Poor people and members of vulnerable or marginalised groups in particular need to be included in decision-making processes regarding water and sanitation to ensure that their specific needs are understood and prioritised. Genuine user participation is key to preventing inappropriate technical solutions, prohibitive financial costs or unrealistic payment options where services are provided. Information on water and sanitation and related services should be publicly available in an easily understood format (including a format for illiterate people, such as flip-charts), should be provided in local and minority languages and should be disseminated through various forms of media, ensuring that it reaches marginalised and remote communities. Access to information and public participation is now generally recognised as a right in itself and widely acknowledged as a development best practice.

The 1996 Water and Water Resources Law does not contain provisions explicitly providing for public participation in decision-making processes or access to information on water and sanitation. The

¹⁸ Laos People’s Democratic Republic, *National Growth and Poverty Eradication Strategy*, p.88.
¹⁹ Lao People’s Democratic Republic, Committee for Planning and Investment, *The National Socio-Economic Development Plan (2006-2010)*, (2006), p.154.
²⁰ The Government of the Lao PDR and the United Nations, *Millennium Development Goals Progress Report Laos PDR*, p.27

Prime Minister's 2001 Implementing Decree²¹ stipulates in article 1(2) that "The Ministries, agencies and local authorities at all levels shall create public awareness and understanding among all people of the importance of water and water resources and the need to participate in the protection and management of these resources." Article 19 (1) prescribes that "All water resource development projects, particularly construction of dams, irrigation schemes, and the diversion of rivers and streams must go through a public consultation process with the people in those locations." This provision therefore helps implement a rights-based approach. However, it could be strengthened by providing further elaboration on the scope and content of such consultations and possible follow-up procedures in case significant concerns are raised by the people in those locations.

With regard to access to information, article 19 (2) adds that "When a water resource development project is expected to have an impact on the natural or social environment, the ministries and local authorities shall issue a notification and inform the people about the water resource development through newspapers, public notices and other means." Paragraph 2 of article 20 addressing resettlement provides that "The implementation of the resettlement plan shall start with making people fully aware of the plan."

The new Draft Law on Water Supply provides with regard to access to information in article 11 that the Ministry of Public Works and Transport creates the National Water Supply Information System for collecting data and provide information on water supply development and other purposes. However, as the text stands at the moment it does not specify who should have access to the information collected and stored by the National Water Supply Information System. Article 33 of the Draft Law on Water Supply on tariff policy provides that "[f]ollowing acceptance, the water supply tariff policy must be disseminated to every level of water supply management agencies, water supply service providers and service users, and the general public, such that everybody knows about the water supply policy." Article 34 (4) of the Draft Law further stipulates that water supply service users have the right to receive news information about water supply activities. From a rights-perspective, the Draft Law could be strengthened to contain a provision explicitly stating that individuals have a right to have access to information, particularly with regard to the information collected in the National Water Supply Information System. Also, it would be desirable for the new Law on Water Supply to specify how the responsible government agencies and other relevant stakeholders are to inform individuals and communities about water and sanitation issues, for example by requiring the transmission of information through all forms of media, including those used by the poor, and in all languages, including ethnic group dialects.

In policy a number of positive steps have been taken in terms of providing information to the population, particularly regarding water quality and hygiene. The Health, Information and Communication (IEC) campaign seeks to communicate policy directives on health to the population, particularly those in remote, difficult to access areas - who lacking access to an improved water supply, are often dependent on water taken from springs and streams. The IEC campaign includes information on boiling drinking water and hygiene awareness. The NGPES sets the target of expanding the IEC to reach 85% of all villages by 2005.²² Improving access to information on water and sanitation, a key human rights principle in itself, and necessary to realize the right to water,

²¹ Decree to Implement the Law on Water and Water Resources, Decree No. 204/PM 9/10/01

²² .Laos People's Democratic Republic, *National Growth and Poverty Eradication Strategy*, p.8..

sanitation and health, is to be achieved through utilization of mass media and the school curriculum. Through the IEC the government commits to initiating health broadcasts for local radio stations in both Lao and ethnic languages in selected provinces; initiating health programmes and materials for TV channels and newspapers; integrating health promotion into the curriculum and expanding the primary school sanitation programme.²³ The National Socio-Economic Development Plan stresses that improving access to information is also important to both increasing people's ability to participate in the socio-economic development of the country and improving their knowledge about their rights and obligations.²⁴

Regarding public participation in decision-making processes, article 16 of the Draft Law provides that "All large-scale and medium-scale water supply construction projects must conduct the feasibility of the project with the participation of the local administrative authority and community in the decision-making process." There are no further provisions on the right to participation in the current draft Law on Water Supply. In order to promote public participation in decision-making on water and sanitation issues, it would be useful if the current draft Law endorsed public participation as a right and basic principle applicable to all decision-making processes on water and sanitation issues, and provided more specific requirements for participation, including time frames for consultation.

To ensure that development is community driven and people-centred the NGEPS commits to "ensuring that the Lao people are closely consulted in all areas of decision-making and that they participate fully in the economic, social and political development of the country,"²⁵ including in project planning, implementation and monitoring.²⁶ The NGEPS commits to building the capacity of local communities to engage in participatory planning, in particular for the 47 poorest districts.²⁷ The NGEPS further highlights its commitment to strengthening capacity at all levels specifically at the district level in order to de facto enable participation in the planning process through producing questionnaires to enhance interaction between villagers and district officials for data collection and planning processes.²⁸ The result of this approach is expected to be the improved targeting of projects for poverty alleviation, more efficient allocation of resources and local ownership of the planning process.²⁹ Project monitoring is also to include participatory exercises and traditional household surveys.³⁰ In terms of water and sanitation provision, the NGEPS states that no physical works should be implemented without the prior establishment of participatory beneficiary institutions including Water User Associations. The NGEPS further provides that "broad participation will be promoted to ensure strong community ownership and local transparency and accountability"³¹ and encourages the active participation of all women, particularly poor and ethnic minority women.³² The NGEPS seeks to adopt a decentralized approach to development and redefine central-local relations. It establishes provinces as strategic planning units, districts as programme, project planning and

²³ Ibid.

²⁴ Lao People's Democratic Republic, Committee for Planning and Investment, *The National Socio-Economic Development Plan (2006-2010)*, (2006), p. 97.

²⁵ Lao People's Democratic Republic, *National Growth and Poverty Eradication Strategy*, p.48.

²⁶ Ibid. p. 24.

²⁷ Ibid. p. 150.

²⁸ Ibid. p. 35.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid. p.142.

³² Ibid. p. 113.

budgeting units, and villages as the main focus for project implementation.³³ These efforts certainly reflect a rights-based approach to increase public participation in the development process.

The Government of Lao PDR has gained considerable positive experiences with participatory approaches to water and sanitation provision in the recent past. One example is the Northern and Central Regions Water Supply and Sanitation Sector Project (NCRWSSSP, co-financed by ADB, NORAD, OPEC and UN-HABITAT), the objective of which is to improve the quality, reliability and sustainability of water supply services and improve the environmental conditions in selected small towns in the Northern and Central region of Lao PDR. Public participation in the implementation of the project at the local level is particularly facilitated through the village Water and Sanitation Associations (WATSANs). WATSANs are established at each level to represent villagers in the cooperation with the Project Coordination Unit (PCU). Each village has 7 WATSAN members, which are elected out of 10 candidates in a secret election.³⁴

Another example of recent participatory water and sanitation projects in Lao PDR is the community-based water supply and sanitation project in Sayabouly, which was carried out in the framework of the Mekong Region Water and Sanitation Initiative (MEK-WATSAN).³⁵ Apparently, the project was so successful that the Government of Lao PDR soon after agreed to a second community-based water supply and sanitation project in Xieng Ngeun (Luangpragang).

In sum, while it appears that at the legal framework fails to effectively ensure access to information and public participation in decision-making on water and sanitation issues in general, water and sanitation policy along with the successful implementation of several community-based participatory projects in recent years may provide lessons which could form the basis for mainstreaming public participation and access to information in all water and sanitation policies and projects carried out in Lao.

2.2.4 Water availability and allocation

Water availability and allocation

A rights-based approach to water and sanitation entails that the water supply for each person should be sufficient and continuous for personal and domestic uses, which normally include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene. The amount of water available for each person should be consistent with World Health Organization guidelines.³⁶ While it is important to prioritise the use of water for essential personal and domestic uses over agricultural and industrial uses, the next priority is to allocate water for essential agricultural uses, particularly subsistence agriculture and animal husbandry, as well as ensuring maintenance of ecological flows.

³³ Ibid. p.128.

³⁴ COHRE interview with Khamphong Chaysavang, Community Development Officer, UN-HABITAT, June 2008.

³⁵ MEK-WATSAN is a collaborative effort between the Governments of the Mekong region: Cambodia, Yunnan Province (China), Lao PDR and Vietnam. The main purpose of MEK-WATSAN is to assist participating governments to achieve the MDG targets on water and sanitation.

³⁶ General Comment No. 15, para 12 (a). This translates into 50 to 100 litres per person per day, with an absolute minimum of 20 litres per person per day in emergency situations.

The Water and Water Resources Law of Lao PDR prioritises “family domestic use” and exempts small scale water use from licensing requirements.³⁷ The proposed Draft Law on Water Supply also defines the basic level of water supply as “the minimum standard necessary for water supply services which have been defined for the purpose of providing appropriate and sufficient quantity and quality of water to various types of households”.³⁸ Whilst national standards in Lao PDR do not officially stipulate a minimum amount of water for personal and domestic uses per person per household, in practice Lao PDR aims to ensure a minimum of 40-60 litres per person per day.³⁹ Increasing this amount to be in line with the WHO standard of 50 to 100 litres per person per day would constitute a positive step.

Lao PDR is rich in water and water resources. The total annual flow of water into Lao PDR is circa 270,000 million cubic meters, which accounts for around 35% of the average annual flow for the entire Mekong Basin.⁴⁰ Lao PDR also has the highest per capita renewable fresh water resources in Asia. The annual national supply of renewable fresh water is 270 billion cubic metres, approximately 600,000 cubic metres per capita while current demand stands at 259 cubic metres per capita.⁴¹ Despite being rich in water and water resources, in Lao PDR lack of access for both domestic and agricultural use, particularly in rural areas, results in the poorest using less than half the national average of daily water use.⁴² Government policy and practice has sought to mitigate this problem by targeting limited financial resources on areas which remain in acute need (see section on physical accessibility below) and the Draft Water Supply Law prioritises the provision of water to the poor.⁴³

The Draft Law on Water Supply stipulates in article 14(8) that: “The important priority of water source exploitation [is] for water provision for the daily livelihood use of the community”.⁴⁴ This provision can be understood to reflect the key principle of a rights-based approach to water and sanitation, namely that basic personal and domestic water needs are afforded priority over other uses. Once these needs are satisfied, water is also made available for other essential uses. Lao PDR is a predominantly agricultural society, with around 80% of the labour force engaged in subsistence agriculture, accounting for almost half of GDP. As the majority of Laotians are highly dependent on agriculture, ensuring that water is allocated for small-scale and subsistence agriculture, once personal and domestic needs are met, is necessary to protect the human right to food.

Lao PDR has placed environmental protection and the sustainability of water resources as a central concern as the country embarks on its ambitious development plan to lose its status as being a Least Developed Country by 2020, as emphasised in both The Water and Water Resources Law⁴⁵ and the proposed draft Law on Water Supply.⁴⁶ The National Water Resources Plan further aims to protect

³⁷ Articles 15, 18.

³⁸ Article 3 (9)

³⁹ Noupheuak Virabouth, Deputy Director, General Director of the Water Supply Authority, COHRE interview, June 2008.

⁴⁰ Water Environmental Partnership in Asia, www.wepa-db.net

⁴¹ Water Environmental Partnership in Asia, www.wepa-db.net

⁴² Laos People’s Democratic Republic, *National Growth and Poverty Eradication Strategy*, p. 117.

⁴³ Article 14 (5).

⁴⁴ See also article 14(6) which first lists water supply for the needs of people in quantity and quality.

⁴⁵ See, Articles 29 & 31.

⁴⁶ See, Articles 8 & 38.

water resources and “to prevent and monitor negative impacts on water and water resources.”⁴⁷ The institutional framework to realize this goal is in place and the Water Resource Coordination Committee is responsible for the coordination of planning, management, and monitoring of water and water resource protection in order to ensure the sustainable development and use of water and water resources.⁴⁸ Yet, significant challenges remain. The annual population growth rate in Lao PDR is 2.8 percent⁴⁹ which places increasing pressure on water resources and it is unlikely that current supply systems will meet future projected demand. The annual urbanization growth rate is between 4-5 per cent.⁵⁰ This rapid expansion of urban settlements coupled with the limited capacity of government and service providers to adequately manage increased waste-water discharge may lead to adverse environmental degradation and contamination of water resources.

Current leakage from pipes stands at around 25% although this varies according to area.⁵¹ A study carried out in 2002 found that unaccounted for water, most likely lost through leakage, reached as high as 43% in some areas such as Sam Neua.⁵² The Government of Lao PDR has implemented a programme aimed at improving network efficiency through providing training in areas such as leakage control, pipe laying and service instillations.⁵³ Three year business plans providing for tariff reviews are also seen as a tool to improve network efficiency, reduce water wastage and subsequently reduce the tariff for users.⁵⁴

2.2.5 Water quality and hygiene

Water quality and hygiene

A rights-based approach to water and sanitation entails that water and sanitation services should be safe and acceptable. In particular, water used for basic personal and domestic needs should be free from hazardous substances that could endanger human health, and its colour, odour and taste should be acceptable to users.⁵⁵ Sanitation must be safe, adequate and conducive to the protection of public health and the environment.

Lao PDR has identified the need to ensure access to safe water for all as a long-term goal. The Ministry of Health is responsible for determining water quality standards for drinking water and the treatment of wastewater and has a long-term programme in place to reduce pollutants. A number of other Ministries hold obligations to set water quality standards in relation to agriculture, industry,

⁴⁷ Lao People’s Democratic Republic, *Decree to Implement the Law on Water & Water Resources*, Article 5 (2).

⁴⁸ Lao People’s Democratic Republic, *Prime Ministerial Decision on Management and Development of Water Supply Sector*, Article 2.4.

⁴⁹ The Government of the Lao PDR and the United Nations, *Millennium Development Goals Progress Report Laos PDR*, p.1

⁵⁰ UN-HABITAT, ADB, Government of Lao PDR, *Water for Asian Cities Programme Lao PDR*.

⁵¹ Noupheuak Virabouth, Deputy Director, General Director of the Water Supply Authority, COHRE interview, June 2008.

⁵² Water Supply Authority, Department of Housing and Urban Planning & Urban Research Institute, *Small Towns Water Supply and Sanitation Initiative in Lao PDR*, p.17.

⁵³ Noupheuak Virabouth, Deputy Director, General Director of the Water Supply Authority, COHRE interview, June 2008.

⁵⁴ Noupheuak Virabouth, Deputy Director, General Director of the Water Supply Authority, COHRE interview, June 2008.

⁵⁵ General Comment No. 15, para. 12 (b).

wastewater discharge and waste disposal.⁵⁶ Nam Saat is the agency responsible for both rural and urban environmental hygiene and is mandated to improve health and hygiene education, reduce morbidity and mortality rates amongst the population and improve environmental health conditions including through the extension of sanitation facilities in rural communities.

According to the Hygiene, Prevention and Health Promotion Law (2001) every water source or facility must be subject to quality analysis.⁵⁷ However, in practice, Lao PDR does not have the resources to conduct regular water testing although random sampling is carried out in every province.⁵⁸ In recent testing of 2,000 samples taken from bore-holes in the south of Lao PDR a number showed levels of arsenic contamination in ground water. In other areas high concentrations of fluoride were found.⁵⁹ Close to a mine operation in the North of Lao PDR traces of cyanide were present in fish caught for human consumption.⁶⁰ This indicates the need for more stringent regulations on industrial pollution in order to ensure that people have access to a clean and safe water supply that is free from contaminants constituting a threat to human health.

In spite of these alarming cases, quality at water sources in Lao PDR is generally good due to low levels of agricultural and industrial activity.⁶¹ However, health problems due to water-borne diseases remain prevalent due to a lack of knowledge especially in rural areas on safe water storage at the household level. In 2000 there were 12,440 cases of Acute Diarrheal Diseases/Cholera resulting in 520 deaths⁶² and in December 2007, there was an outbreak of cholera in the Thataeng and Lamam Districts of Sekong Province, southern Lao. Malaria and dengue fever are also common in the country. The Ministry of Health (MOH), UN Habitat, UNICEF and WHO have all been implementing programmes to promote and educate the public on household water treatment including boiling water and chlorination. The MOH is further promoting the use of bio-san filters. So far this year, 320 bio-san filters have been distributed as part of a pilot scheme operating in six provinces.⁶³ One bio san filter can purify around 200 litres of water per day, from surface water resources, and costs around US\$ 20. The MOH assumes responsibility for installing the bio san filters and monitoring quality. However a lack of financial resources may limit the expansion of this programme.

Lack of adequate sanitation facilities also reduces water quality and increases the prevalence of water borne disease. No urban centres have access to a piped sewerage system; most flush toilets in urban centres are connected to a septic tank.⁶⁴ In those areas with on-site sanitation the effluent from septic

⁵⁶ See, *The Prime Ministerial Decree to Implement the Law on Water and Water Resources*, Article 23.

⁵⁷ Article 12.

⁵⁸ Noupheuak Virabouth, Deputy Director, General Director of the Water Supply Authority, COHRE interview, June 2008.

⁵⁹ Dr. Nouanta Maniphousay, Director, National Centre for Environmental Health and Water Supply, COHRE interview, June 2008.

⁶⁰ Dr. Nouanta Maniphousay, Director, National Centre for Environmental Health and Water Supply, COHRE interview, June 2008.

⁶¹ The Government of the Lao PDR and the United Nations, *Millennium Development Goals Progress Report Laos PDR*, p.57.

⁶² Laos People's Democratic Republic, *National Growth and Poverty Eradication Strategy*, p. 89.

⁶³ Dr. Nouanta Maniphousay, Director, National Centre for Environmental Health and Water Supply, COHRE interview, June 2008.

⁶⁴ Noutana Maniphousay and Tayphasavanh Fengthong, 'Community-designed IEC materials and school sanitation in Lao PDR', 2007, p.1.

tanks are discharged into storm water drains and flow into water courses, and pit latrines are not emptied on a regular basis.⁶⁵ The respective district administrations are responsible for the management of sanitation facilities and ensuring compliance with regulations on sanitation and waste-water disposal.⁶⁶ In rural Lao sanitation coverage is very low. A survey by the Ministry of Health in 2006 showed that only 38.4% of the population in rural areas with road access had access to improved sanitation, dropping to 15.7% in rural areas without road access. Whilst significant efforts have been made by Nam Saat to address the lack of knowledge that exists in rural areas on the importance of sanitation and good hygiene practices, challenges to be overcome include reaching the remote rural areas and finding solutions to communication barriers when dealing with diverse ethnic groups or illiterate people. Water and sanitation service providers in Lao PDR could take greater action to assist communities to improve their own environmental sanitation conditions. They could, for example, facilitate communities to analyse their current situation, prompting them to take action to improve conditions by building and using toilets. In doing so, communities should be encouraged to contribute either financially or in kind to sanitation facilities and be provided with assistance where necessary.

2.2.6 Physical accessibility of water and sanitation

Physical accessibility of water and sanitation
A rights-based approach to water and sanitation entails that water and sanitation services and facilities should be accessible within, or in the immediate vicinity, of each household, educational institution and workplace and should be in a secure location not posing a threat to physical security.⁶⁷

Over 80% of the population live in remote rural areas in small villages of between fifty to two hundred households with limited access to basic infrastructure and services. Extending water and sanitation services to unserved communities is a considerable challenge faced by the Government of Lao PDR particularly to remote villages in mountainous terrain and areas without access to all-weather road. However, efforts to extend water access, even within the constraints of limited financial resources, have met with considerable success. In 1995, 15% of households in Lao PDR had access to piped water or a protected well, which had risen to 50% in 2000.⁶⁸ Yet, wide disparities exist on a regional level with 89% of households in Vientiane Capital having access to an improved water source in 2000, falling to 48% in the South and 32% in the North.⁶⁹ Whilst in urban areas the proportion of households connected to the piped water network is increasingly expanding, especially in Vientiane Capital, low-lying areas depend on shallow-dug wells and mountainous areas remain dependent on water taken from springs and streams.⁷⁰

⁶⁵ Ibid. p.4.

⁶⁶ Ibid.

⁶⁷ General Comment No. 15, para. 12 (c) (i), 29, Sub-Commission Guidelines section. 1.3 (a)-(c).

⁶⁸ Laos People’s Democratic Republic, *National Growth and Poverty Eradication Strategy*, p. 34.

⁶⁹ Laos People’s Democratic Republic, *National Growth and Poverty Eradication Strategy*, p. 34.

⁷⁰ The Government of the Lao PDR and the United Nations, *Millennium Development Goals Progress Report Laos PDR*, p.56.

The Millennium Development target for Lao PDR is to increase the proportion of the population with sustainable access to an improved water source to 80%, and the proportion of the urban population with access to improved sanitation to 70% by 2015.⁷¹ Lao PDR's Sixth National Socio-Economic Development Plan (2006-2010), and the National Growth and Poverty Eradication Strategy (NGPES) both set targets and indicators for improved service delivery based on the MDGs and are consistent with human rights principles to progressively extend water and sanitation services to unserved communities.⁷² The Ministry of Health has set the target of providing 75% of the population in the poorest districts with access to clean water, and 55% with access to safe sanitation by 2010.⁷³ The Ministry of Health has focused its resources on improving access to water and sanitation for the 72 poorest districts, reflecting the human rights principle that in the allocation of resources priority should be given to the individuals and communities which are most in need.⁷⁴ However, despite the area- focused development approach adopted by the Government of Lao PDR the NGPES recognizes that - given the limited financial and human resources - implementation faces constraints.⁷⁵ However, there is no clear policy commitment to providing water and sanitation facilities to informal settlements. Further accessibility targets could be strengthened by the inclusion of a commitment to ensuring physical security when accessing water and sanitation facilities.

The National Growth and Poverty Eradication Strategy (NGPES), recognises that lack of access to water is a contributing factor to sustaining and perpetuating poverty. Moreover, the NGPES recognises that "poor access to services is also exacerbated by lack of knowledge of rights and information about how the Government works, contributing to exclusion from decision-making."⁷⁶ This has led to governance reform and efforts to redefine levels of responsibility at the central, provincial, district and village levels in an attempt to improve both management and delivery of public services.⁷⁷ There is an institutional division of responsibility with the Ministry of Public Works and Transport (MPWT) being responsible for urban water provision and the Ministry of Health (MOH) being responsible for improving access to water supply and sanitation facilities in rural areas. In the urban centres the Urban Development and Administration Authorities, operating independently at the provincial level, are responsible for constructing, upgrading and maintaining urban infrastructure including sanitation, yet it is unclear how this is being achieved.⁷⁸ Improving access to information would help to educate users about government responsibilities in this field.

Lao PDR's Millennium Development Goals Progress Report notes that significant obstacles to achieving the targets on water and sanitation include the lack of equity in public investment between

⁷¹ The Government of the Lao PDR and the United Nations, *Millennium Development Goals Progress Report Laos PDR*, p.56.

⁷² The Sixth National Socio-Economic Development Plan (2006-2010) establishes Health Sector Targets to be achieved by 2010 which include: to increase access to safe water to 75% of the population; to increase access to safe water in rural areas to 75% of the population; to achieve coverage of toilet facilities meeting sanitary standards to 60% of the population; to increase the proportion of schools having segregated facilities to 35% of the population. See, Lao People's Democratic Republic, Committee for Planning and Investment, *The National Socio-Economic Development Plan (2006-2010)*, (2006), p.154.

⁷³ Ibid. p. 155.

⁷⁴ Ibid. p. 154.

⁷⁵ Laos People's Democratic Republic, *National Growth and Poverty Eradication Strategy*, p. 57.

⁷⁶ Laos People's Democratic Republic, *National Growth and Poverty Eradication Strategy*, p.48.

⁷⁷ Laos People's Democratic Republic, *National Growth and Poverty Eradication Strategy*, p.48.

⁷⁸ Noutana Maniphousay and Tayphasavanh Fengthong, 'Community-designed IEC materials and school sanitation in Lao PDR', 2007, p.3.

urban and rural areas, particularly the lack of infrastructure and human resources in remote rural areas and lack of external financial support for rural areas.⁷⁹ The Government's development plans seek to encourage foreign direct investment in Lao PDR and encourage the private sector to take a role in service provision, including water and sanitation. Whilst not conflicting with human rights principles *per se* the Millennium Development Goals Progress Report notes that an appropriate regulatory framework for private-sector participation in the water and sanitation sector is yet to be developed.⁸⁰ Having a regulatory framework in place is essential in order to ensure that possible future privatization of water and sanitation services and facilities does not lead to increases in prices or failure to provide services to marginalized groups which could result in poor people's access to water and sanitation being curtailed and is a key aspect of a government's obligation to *protect* the right to water and sanitation.

Rural-urban migration has led to a high increase in population density in secondary urban towns and rapid urbanization poses significant challenges to local authorities to expand water supply coverage and adequate sanitation facilities and services. Those that move to urban centres are faced with high costs for water, use water of dubious quality and are living in unsanitary conditions.⁸¹ In Lao PDR whilst the national coverage for water and sanitation is 75% and 80% respectively, it falls to just 18% and 10% in secondary towns.⁸² About two-thirds of 145 district towns lack access to a safe water supply.⁸³ Where there is inadequate access to an improved water supply, thousands of small scale service providers operate in Lao PDR and it is of concern that this sector remains unregulated. Those not connected to the water supply can pay up to ten times more for untreated water from wells and tanks provided by water vendors. The Government of Lao PDR has prepared an urban water sector investment plan focusing on expanding access to water and sanitation services and facilities in small and medium sized towns over the period 2005-2020. The plan is estimated at \$266 million and aims to serve 1.95 million of the urban population.⁸⁴

The Northern and Central Regions Water Supply and Sanitation Sector Project (NCRWSSP) aims to improve the quality, reliability and sustainability of water supply services in 12 selected small towns in the Northern and Central regions and promote the private sector's participation in water supply services.⁸⁵ It is estimated that 89,000 residents will benefit from a safe and reliable piped water supply by 2010 and 100,000 by 2015.⁸⁶ The project further aims to improve environmental conditions in these small towns through rehabilitating and improving selected urban facilities and enhancing public hygiene awareness which will improve the health, wellbeing and living conditions of residents. However, a greater focus is needed on developing regulations on sanitation, which currently remain less comprehensive than those governing water supply.

⁷⁹ The Government of the Lao PDR and the United Nations, *Millennium Development Goals Progress Report Laos PDR*, p.57-58.

⁸⁰ *Ibid.* p.58.

⁸¹ UN-HABITAT, *The Mekong Water and Sanitation Initiative: Supporting Secondary Urban Centres in the MEKONG REGION to achieve the MILLENNIUM DEVELOPMENT GOAL on Water and Sanitation*, p.6.

⁸² UN-HABITAT, *The Mekong Water and Sanitation Initiative: Supporting Secondary Urban Centres in the MEKONG REGION to achieve the MILLENNIUM DEVELOPMENT GOAL on Water and Sanitation*, p.6.

⁸³ UN-HABITAT, ADB, Government of Lao PDR, *Water for Asian Cities Programme Lao PDR*.

⁸⁴ UN-HABITAT, *The Mekong Water and Sanitation Initiative: Supporting Secondary Urban Centres in the MEKONG REGION to achieve the MILLENNIUM DEVELOPMENT GOAL on Water and Sanitation*, p.5.

⁸⁵ UN-HABITAT, ADB, Government of Lao PDR, *Water for Asian Cities Programme Lao PDR*.

⁸⁶ UN-HABITAT, ADB, Government of Lao PDR, *Water for Asian Cities Programme Lao PDR*.

A subcomponent of the project provides funds for small-scale, community-led improvements in around 100 core villages with an emphasis on improving community infrastructure such as access roads, drains and provision of sanitation in community meeting places as well as improved sanitation for poor households. Those households that elect to be connected to a piped water supply are entitled to a grant enabling them to construct a flush toilet with pit latrine. For those households that choose not to connect to the piped water network a smaller grant is provided enabling them to upgrade their sanitation facilities. Whilst the 80% of the cost of such work will be covered from loan proceeds passed to the community in the form of a grant and 10% of costs will be met by the provincial or district government, the communities themselves will contribute the remaining 10% of costs either financially or in kind ensuring community participation in and ownership of the project.⁸⁷ The up-scaling of this approach could be a positive step towards increasing access to water and sanitation in yet unserved communities.

More than 10,000 villages exist in rural areas with an average population size of 450 individuals per village.⁸⁸ Lack of accessibility and the sheer number of remote rural communities presents a major challenge in terms of water and sanitation infrastructure and service provision. The lack of accessibility of many of the poorest districts has further deterred investment and donor assistance in these areas. As a result Lao PDR has prioritised investment into roads, communications and other infrastructure.⁸⁹ Nam Saat has prioritised service delivery in the poorest and least accessible areas where the most vulnerable people live and focused its activities on increasing water supply coverage in order to meet the Government's targets on accessibility. Nam Saat encourages and supports community involvement in the design and operation of facilities and has adopted a decentralized approach to project planning and implementation. The community itself chooses the technology and service level it requires from a range of service options based on what is suitable for their environment and what the community is able to afford and the community itself contributes to both construction costs and maintenance. However, Nam Saat suffers from a lack of funds which impedes the effectiveness of the agency to implement its programme.⁹⁰ Increased development assistance is required to support the rural water and sanitation sector and improve the living conditions of those that are most excluded.

Due to the difficulty of accessing upland areas where many small isolated communities of ethnic groups live far from roads but close to the forest, streams and agricultural lands upon which they depend for subsistence and livelihood, the Government of Lao PDR has adopted the approach of relocating such communities to accessible service centres, seeing this option as both more practical and affordable at the country's present stage of development.⁹¹ However this policy raises concerns of cultural inadequacy.⁹² Such ethnic minority groups have a distinct way of life that is intimately

⁸⁷ Information provided to COHRE by Khamphong Chaysavang, CDO UN-HABITAT NCRWSSSP, June 2008.

⁸⁸ Noutana Maniphousay and Tayphasavanh Fengthong, 'Community-designed IEC materials and school sanitation in Lao PDR', 2007, p.3.

⁸⁹ Lao People's Democratic Republic, *National Growth and Poverty Eradication Strategy*, p. 52.

⁹⁰ Noutana Maniphousay and Tayphasavanh Fengthong, 'Community-designed IEC materials and school sanitation in Lao PDR', 2007, p.1.

⁹¹ Lao People's Democratic Republic, Committee for Planning and Investment, *The National Socio-Economic Development Plan (2006-2010)*, (2006), p.94.

⁹² General Comment 4: The Right to Adequate Housing issued by the UN Committee on Economic, Social and Cultural Rights states in para. 8 (g) that; 'The way housing is constructed, the building materials used and the

connected to the land they have lived on for generations and their access to natural resources. Resettlement policies have neglected important issues such as the availability of adequate land for farming and grazing livestock as well as access to forestry and fishery resources which may be lost when people are resettled.⁹³ For this reason, it is necessary to develop water and sanitation access strategies, in consultation with some communities, which aim to provide public services to these communities that minimise, as far as possible, the need for re-settlement. An important component of such strategies should include recognition of the land rights of ethnic groups, protection of traditional sources of water and customary access as well as the right of ethnic groups to fully participate in decision-making relating to their situation.

2.2.7 Affordability

Affordability of water and sanitation services

A rights-based approach to water and sanitation entails that the cost of access to a sufficient quantity of safe water and basic sanitation must be at a level that is affordable to all people. Affordability also means that the cost of obtaining water and sanitation must not reduce the ability of individuals and communities to pay for other essential goods and services, including food, housing, education and health.

The 1996 Water and Water Resources Law is silent on the issue of affordability. The current draft Law on Water Supply determines in article 33 that the Ministry of Public Works and Transport has the duty to research, create and improve the water supply tariff policy. Article 34 of the draft Law on Water Supply further stipulates that Water Supply business operators research, define and review the water supply tariff from time to time with reference to ... the socio-economic situation and the living conditions in each location ...“and in such a way that in particular the poorest people can afford it and water supply business operators are able to run their own business in an efficient and sustainable manner”. Article 35 of the draft Law on Water Supply further specifies the procedure for approval of water supply tariffs. Article 36 of the draft Law on Water Supply in subparagraph (3)(a) provides that water supply service providers have the right to suspend temporarily or in the long term the supply of water to consumers who fail to regularly pay water charges although they have repeatedly received claims. Unfortunately, this provision does not contain an exception for people who can prove that they are unable to pay.

Addressing issues of social fairness is stated as one of the main objectives of the 2004 National Water Tariff Policy (NWTP).⁹⁴ In order to reach its social objectives, the NWTP provides for:

- cross-subsidies between commercial and domestic customers,⁹⁵

policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed,' UN. Doc. 13/12/91

⁹³ Ian G. Baird and Bruce Shoemaker, *Aiding or Abetting? Internal Resettlement and International Aid Agencies in the Laos PDR*, August 2005, p. 10.

⁹⁴ Ministerial Decision No. 5336/MCTPC of 26 April 2004, available at: <http://www.wasa.gov.la/docs/Water%20Tariff%20Policy-English.pdf>.

- provides for the possibility to introduce rising block tariffs,⁹⁶
- suggests a cross-subsidy from the unit tariff to the connection charge,⁹⁷
- endorses the concept of lower tariffs for lower levels of service irrespective of the actual costs of the service⁹⁸ and
- suggests tariff ceilings that result in households not spending more than 3–5% of household income for domestic water and sanitation services.⁹⁹

Regarding disconnections, it appears that while non-paying households should be disconnected after 60 or 90 days,¹⁰⁰ such disconnections are actually never carried out by Nam Papa Nakhoneluang or most of the other PNPs.

The price of potable water supplied by the state-owned water companies (PNPs) is comparatively low throughout Lao PDR.¹⁰¹ In the capital of Vientiane, for example, one litre of drinking water costs approximately 1.2 Kip.¹⁰² For poor families eligible for the lifeline tariff, the price of drinking water provided through a household connection is reduced to 0.7 Kip per litre.¹⁰³ Life-line tariffs exist in urban areas throughout Lao PDR. However, the quantity of water covered by the lifeline tariff varies between 5 to 10m³ per household per month, depending on the Province.¹⁰⁴ Officially, whether a household is eligible is tied to 4 to 5 factors (family income, number of children going to school, rice, structure). The criterion unofficially handled by the agencies is family income of less than 1 USD per capita per day.

It is estimated that people living in rural areas without access to a regulated water supply system pay up to 10 times more for water from wells, tankers and other unregulated private water vendors than those connected to regulated systems in urban areas.¹⁰⁵

In most cases, however, it is not the water tariffs that make household water services unaffordable for the poor, but the connection fees, which can be in excess of USD 100. The problem of high connection fees excluding poor people from access to household water services has been successfully addressed in the framework NCRWSSSP focusing on small towns in the Northern and

⁹⁵ Statement 4 NWTP: “This Water Supply Tariff Policy supports the concept of cross subsidies from commercial customers to domestic consumers and that the tariff for commercial customers be set at two to three times higher than the domestic customer tariff but, as a minimum, not less than fifty per cent more than the domestic tariff.”

⁹⁶ Statement 6 NWTP.

⁹⁷ Statement 8 NWTP: “Subsidised connection fees: This Water Supply Tariff Policy supports a strategy of subsidised connection fees, specially for poor households, in exchange for higher consumption tariffs.”

⁹⁸ Statement 10 NWTP.

⁹⁹ Statement 29 NWTP.

¹⁰⁰ Frederic Naulet, Director Project MIREP, GRET, COHRE interview, June 2008.

¹⁰¹ An overview (although not up to date) over water tariffs per province is available at:

http://www.wasa.gov.la/english/water_tariff.html

¹⁰² At present, approximately 8500 Kip equal one US Dollar. In Vientiane, Capital one US Dollar would thus buy more than 7000 litres of drinking water.

¹⁰³ Noupheuak Virabouth, Deputy Director, General Director of the Water Supply Authority, COHRE interview, June 2008.

¹⁰⁴ Noupheuak Virabouth, Deputy Director, General Director of the Water Supply Authority, COHRE interview, June 2008.

¹⁰⁵ Mr. Phomma VEOVARANH, Project Director, Northern and Central Regions Water Supply and Sanitation Sector Project (NCRWSSSP), Ministry of Public Works and Transport (MPWT), Department of Housing and Urban Planning (DHUP), COHRE interview, June 2008.

Central regions of Lao PDR. Under the NCRWSSSP project, people are responsible for obtaining basic sanitary facilities (such as simple pit latrines) for themselves. If basic sanitary facilities are in place, the household water connection is provided for free.¹⁰⁶

The NCRWSSSP applies a block tariff system, which includes a life-line tariff covering the first 7m³ of water for the poorest households.¹⁰⁷ The target for DHUP is that the price for those 7m³ does not exceed 5% of family income. In practice, it reportedly never exceeds 3% of household income.¹⁰⁸

SUMMARY AND RECOMMENDATIONS:

The above survey shows that the Government of Lao PDR has undertaken significant efforts to expand access to safe drinking water and basic sanitation. The Government has made safe drinking water and basic sanitation for all a genuine political and development priority and this has resulted in substantial improvements in access to these fundamental services in the more recent past. However, while considerable progress has been made, access to basic water and sanitation in Lao PDR is still far from universal. Significant challenges remain, particularly with regard to the provision of water and sanitation services in rural areas.

With regard to rights-based approaches to water and sanitation, the above survey of law, policy and practice shows that many elements of a rights-based approach to water and sanitation are already reflected in the current laws, the draft Law on Water Supply and policies. Article 14 of the draft Law on Water Supply for example, for example, prioritises basic human water needs over other uses¹⁰⁹ and the 2004 National Water Tariff Policy includes key principles regarding affordability of water supply services. The 1996 Water and Water Resources Law aim to ensure availability of water resources through environmental protection and sustainable use and there are comprehensive standards regarding water quality in place. In practice, the responsible authorities have adopted a pro-poor approach, targeting limited resources on the extension of services to unserved areas.

Other aspects of rights-based approaches to water and sanitation, such as specific requirements relating to participation and non-discrimination, are not yet strongly reflected in applicable laws. However, these elements have been applied in recent water and sanitation projects, particularly those carried out in the framework of MEK-WATSAN and the Water for Asian Cities Programme (NCRWSSSP). Such experiences underline that rights-based approaches can indeed strengthen water and sanitation provision in Lao PDR, particularly when implemented in co-operation with international partners such as UN-HABITAT.

The drafting of a new Law on Water Supply presents an opportunity for the Government to bring domestic water and sanitation law in line with international standards endorsed by Lao PDR, reflect

¹⁰⁶ Mr. Phomma VEOVARANH, Project Director, Northern and Central Regions Water Supply and Sanitation Sector Project (NCRWSSSP), Ministry of Public Works and Transport (MPWT), Department of Housing and Urban Planning (DHUP), COHRE interview, June 2008.

¹⁰⁷ NCRWSSSP project is implemented in small towns in the Northern and Central region of Lao PDR, which are the poorest regions of the country.

¹⁰⁸ Note that this is an administrative practice which thus far does not exist in official documents.

¹⁰⁹ However, the provision could still be improved by explicitly stating that personal and domestic needs enjoy priority over all other uses.

current trends in comparative water and sanitation law¹¹⁰ and mirror lessons learnt by responsible government agencies in recent projects on the ground.

Therefore, we recommend amending the current draft Law on Water Supply to:

- **Mainstream sanitation through the draft Law on Water Supply**

Articles 3(3), (4) and (10) and 37(5) and (6) suggest that the draft Law on Water Supply equally applies to sanitation. However, this is not clear in the rest of the draft Law. If the new Law on Water Supply is to apply equally to sanitation services, the Law should be renamed “Law on Water Supply and Sanitation” and sanitation should be mainstreamed through the document.

- **Explicitly state that access to safe drinking water and basic sanitation is a basic human right.**

A statement recognising access to safe drinking water and basic sanitation as a basic human right could be included in the current article 14 (Principles governing water supply activities). Such a statement would be in line with current developments in comparative water and sanitation law. Since general principles are normally located at the beginning of a law, this article should be moved to a more prominent position of the law, becoming article 4 or 5. The article should be renamed “General principles governing water supply and sanitation”.

- **Set standards and targets for access to water and sanitation**

The new Law on Water Supply or a respective Implementing Decree should stipulate concrete targets for the progressive extension of drinking water supply and – in particular - sanitation services. Article 31 of the new Law on Water Supply could list the failure of a service provider to fulfil its service extension target as a reason for the termination of the concession. The Law on Water Supply should set a standard for accessibility, i.e. determine a maximum distance to the nearest water source and sanitary facility.

- **Prohibit discrimination and prescribe attention to marginalized and vulnerable groups**

The new Law on Water Supply should explicitly prohibit any form of discrimination without legitimate reason in the provision of water and sanitation services and prescribe special attention to vulnerable and marginalised groups. Such a provision could be included into the current article 14 (as it is a general principle that should govern all activities regarding water supply and sanitation) or into Chapter IV – Prohibitions. Specific rules and procedures should perhaps be formulated in an Implementing Decree. Specific issues to be addressed would include greater access to information on water and sanitation in local languages and stronger participatory mechanisms that are sensitive to gender and ethnic background.

- **Include general provision on access to information and participation, ensuring that all people have access to relevant information and have the opportunity to genuinely**

¹¹⁰ More than 30 States have included or are currently including the right to water in their national constitutions, laws and policies and there is a strong tendency to also include the right to sanitation in national law and policy.

participate in and influence decision-making processes on water and sanitation issues affecting them.

A general provision on access to information and participation could be included in the present article 14 as this is a general principle that should govern all activities regarding water supply and sanitation. The specific references to access to information in articles 33 and 37(4) should be retained. Article 11 on the National Water Supply Information System should state that people should have access to these data. Furthermore, the new Law on Water Supply (or a relevant Implementing Decree) should recognise the importance of local languages and different media (including print and internet, but also radio, which is more useful in rural areas) in order to inform all stakeholders. With regard to participation, the new Law on Water Supply or an Implementing Decree should set clear principles and establish mechanisms for effective participation of all users, with a particular view on groups and individuals who have thus far been underrepresented in decision-making processes on water supply and sanitation, including women. With regard to participation, the drafters could translate lessons learnt from the MEK-WATSAN and NCRWSSSP projects into nationally applicable rules and procedures.

- **Stipulate that water and sanitation services must be affordable for all people**

The general principle that water and sanitation should be affordable for all people should be included into the current article 14. Furthermore, article 36 should specify that no one should be disconnected and left without access to minimum supplies of safe water because of inability to pay. The new Law on Water Supply (or an Implementing Decree) could furthermore codify a ceiling for the percentage of household income to be spent on water supply and sanitation, as already handled in practice in Lao PDR. With connection charges identified as a key obstacle for access of poor people in urban areas, the new Law on Water Supply (or an Implementing Decree) could also include a provision on phased connection charges.

3. COUNTRY SPECIFIC FACTSHEETS ON THE RIGHT TO WATER AND SANITATION

3.1 Vietnam

The human rights to safe drinking water and sanitation

COUNTRY PROFILE

Head of state	President (Truong Tan Sang/Mr)
Head of government	Prime Minister (Nguyen Tan Dung/Mr)
Population	90 million (2013)

Life expectancy	72.8
Under-5 mortality	25/1000
Adult literacy	93.4
Ratifications	Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination against Women, Convention on the Rights of Persons with Disabilities, International Covenant on Economic, Social and Cultural Rights (ICESCR)) -

BACKGROUND

Vietnam has stretches over 1600km along the eastern coast of the Indochinese Peninsula (from 8°34'N to 23°22'N). The country's land area is 326,797 sq km, or 331,114 sq km including water. This makes it slightly larger than Italy and a bit smaller than Japan. Vietnam has 3451km of coastline and 4,510km of land borders: 2,067km shared with Laos, 1,306km with China and 1,137km with Cambodia. The country is S-shaped, broad in the north and south and very narrow in the centre, where at one point it is only 50km wide.

Over the last three decades, Viet Nam has managed to transform itself from being one of the poorest countries in the world into one of the fastest growing in the Asia region. The country's sustained economic growth has created jobs for the unemployed and has helped to reduce its number of poor households. The Government of Vietnam is targeting an annual average GDP growth rate of 7.5-8.0 percent for the period 2006-2010. Under its proposed socio-economic development plan, the GDP share of the agriculture sector will become smaller at about 16 percent, industry and construction's share will increase slightly to 43 percent, while the services sector's share will climb to 41 percent. However, growing urbanization will be a fundamental aftermath of Viet Nam's economic transformation from an agriculture economy to an industrialized economy. The Ministry of Construction (MOC) forecasts that the country will be 45 percent urbanized by 2020 mainly due to the continued rural-to-urban migration caused by greater farm mechanization in the rural areas and perceived higher incomes in the urban growth centers. Higher population densities triggered by rapid urbanization will put additional pressures on the already inadequate infrastructure services, including water supply and sanitation, in Viet Nam's urban areas. In response, the Government's orientation plans for water supply and sanitation services target that by 2010, 80-90 percent of the urban population will have access to clean water; 40 percent of urban areas and 70 percent of industrial zones will be equipped with centralized wastewater treatment systems; 80-90 percent of solid waste will be collected, and over 60 percent of hazardous waste and 100 percent of medical waste will be treated.

NATIONAL LEGISLATION ON THE HUMAN RIGHTS TO WATER AND SANITATION:

National Law on Environmental Protection (December 27, 1993 and Decree No.175/CP of the GoV dated October 18, 1994 on guidance implementation Law on Environmental Protection Law of Water Resources (May 20, 1998) and Decree 179/1999/ND-CP of July 10, 1999 on implementing the Law on Water Resources

Decision No.64/2003/QD-TTg issued on April 22, 2003 by the Prime Minister approving the plan for managing the establishments causing seriously environmental pollution

Decree No.26/CP of the GoV dated April 26, 1996 on administrative fines for violation of environmental protection

Decree No.67/2003 dated June 13,2003 on Fees for wastewater

Directive No.200/TTg of the Prime Minister dated April 29, 1994 on guarantee clean water and rural environmental sanitation

Decision No.860-TTg of Prime Minister dated December 30, 1995 on functions, responsibilities, powers and organization's machinery of Vietnam Mekong Committee

Decision 63/1998/QD-TTg of Prime Minister dated March 18, 1998 on National Orientation on Water Supply Development in Urban Areas by 2020

Decision 35/1999/QD-TTg of Prime Minister dated March 5, 1999 on National Orientation on Drainage Development in Urban Areas by 2020

Decision 152/1999/QD-TTg of Prime Minister dated July 10, 1999 on National Strategy for Solid Waste Management in Industrial and Urban Areas by 2020

Decision 155/1999/QD-TTg of Prime Minister dated July 16, 1999 on promulgating the regulations on hazardous waste management

Directive No.1999/TTg of Prime Minister dated April 3, 1997 on urgent measures to manage solid waste in urban areas and industrial zones

Directive No.04/2004/CT-TTg issued by the Prime Minister dated 20/01/2004 on Management Enhancement Over Clean Water Supply and Consumption

Circular No.71/2003/TT-BTC dated July 30, 2003 issued by Ministry of Finance guiding the implementation of the provisions on the fees and charges for solid waste collection and treatment

NATIONAL PROGRAMMES TOWARDS THE FULFILLMENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

The Government of Vietnam is committed to allocating the resources required to improve the socio-economic conditions of its people, as well as to reduce poverty and improve social equality. In May 2002, the Government adopted the Comprehensive Poverty Reduction and Growth Strategy (CPRGS, approved by the Prime Minister as Document No. 2685/VPCP-QHQT, 21 May 2002) which translates the Government's 10-year socioeconomic development strategy, 5-year socio-economic development plan, and other sectoral development plans into concrete measures with well-defined road maps for implementation. The CPRGS is the Government's action program to achieve its economic growth and poverty reduction objectives. It is carried out at the provincial, district, and commune levels so that local priorities and expenditures are consistent with the national development goals. The CPRGS objectives particularly relevant to the Project include:

- Ensure that 80 percent of urban and 60 percent of rural population will have access to clean and safe water by 2005; 85 percent of rural population to have access to safe water by 2010;
- Ensure that 100 percent of all wastewater is treated in towns and cities by 2010;

- Establish in cities and towns public environmental protection projects such as garbage waste treatment, wastewater treatment;
- Advise and provide guidance to mountainous ethnic people about healthy and hygienic practices;
- Focus on infrastructure development, expanding water supply and drainage in urban areas, especially for the poor;
- By 2005, air and water pollution must attain national water and air quality standards, measured at least in part by the percentages of poor households with hygienic latrines, and access to hygienic water supplies;
- Develop infrastructure and create opportunities for the poor to access public services, and implement policies to ensure essential infrastructure, especially water supply and environmental sanitation for poor areas, poor communes and poor quarters in cities and towns;
- Promote the use of local labor for implementing infrastructure projects, and strengthen the participation of local people in planning, implementation and maintenance of local infrastructure projects.

According to the CPRGS, the Government of Vietnam aims to “ensure that the urban poor have equal access to resources, public services and basic social services”, and to “improve the access of migrants, especially their children, to these resources and services”. Viet Nam’s Millennium Development Goals (MDGs) are a part of the CPRGS.

Government policy and strategies for the development of the WSS sector are described in the orientation plans for urban water supply, urban drainage, and solid waste management in urban areas and industrial zones, which were approved by the Prime Minister in 1998 and 1999.

The Orientation Plan for Urban Water Supply Development to 2020, Decision No. 63/1998/QD-TTg, aims to: (i) rapidly increase water supply coverage in urban areas to 80-90 percent by 2010 and, where feasible, to 100 percent by 2020; (ii) achieve greater commercialization of the water sector; (iii) modernize water technology and equipment; (iv) improve protection of water resources and the environment; (v) develop human resources in the water industry; and (vi) mobilize all sectors of the economy and community to contribute to develop and improve water supply services.

The Orientation Plan for Urban Drainage to 2020, Decision No. 35/1999/QD-TTg, proposes to improve drainage and wastewater systems on an incremental basis. Its key objectives are to: (i) reduce flooding in urban areas; (ii) rehabilitate existing networks and facilities; (iii) expand drainage coverage to 80-90 percent by 2020; (iv) eliminate pit latrines in urban areas; (v) introduce wastewater treatment as resources permit; (vi) promote market oriented approaches to service provision; (vii) develop through public education a better awareness of the impact of sanitation on public health, environmental sustainability and economic development; and (viii) gradually replace subsidies with user charges for drainage services.

The National Urban and Industrial Zones Solid Waste Management Strategy to Year 2020, Decision No: 152/1999/QD-TTg, was designed to: (i) to close uncontrolled dumps and replace them with

engineered or sanitary landfills; (ii) increase solid waste collection step-by-step in urban and industrial areas to 80-95 percent coverage by 2020; and (iii) strengthen institutions and the legal framework for solid waste management.

RECOMMENDATIONS FROM THE UNIVERSAL PERIODIC REVIEW ON THE HUMAN RIGHTS TO WATER AND SANITATION

See: www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx - Documentation by country / Outcome of the Review / Report of the Working group

WHAT DOES UN-HABITAT DO TO PROMOTE THE RIGHTS TO WATER AND SANITATION IN VIETNAM?

UN-Habitat has been implementing the Water for Asian Cities (WAC) Programme and Mekong Region Water and Sanitation (MEK-WATSAN) Initiative in Vietnam since 2007 with a focus on capacity building, environmental sanitation and water supply related activities. WAC supports the ADB Loan project for Central Region Small and Medium Towns to improve water and sanitation services in selected towns, while MEK-WATSAN undertaken projects in the towns along the East West Economic Corridor. WAC has implemented community based water and sanitation projects in 6 towns of central region, while MEK-WATSAN has implemented community based water and sanitation projects in 4 towns of Quang Tri province and their peri-urban areas. Total beneficiaries under WAC is 280,000 and total beneficiaries under MEK-WATSAN is 48,275 in water supply and 120,735 in sanitation.

3.2 Cambodia

The human rights to safe drinking water and sanitation

COUNTRY PROFILE

Head of state	King, Norodom Sihamoni (Preah Karuna Preah Bat Samdach Preah Baromneath Norodom Sihamoni)
Head of government	Samdach Akeak Moha Sena Padey Decho Hun Sen , Prime Minister
Population	14.677 mil (Ministry of Planning, CIPS Report 2013)
Life expectancy	Male 62.04Years, Female 68.38 Years (Ministry of Planning, NSDP MTR 2011)
Under-5 mortality	54 in 2010 (Ministry of Planning, NSDP MTR 2011)
Adult literacy	77.6 (Ministry of Planning, Census report 2009)

Ratifications

- International Covenant on Economic Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of Discrimination against Women (CEDAW)

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of the Child (CRC).

BACKGROUND

The main goal of the Royal Government is to ensure peace, stability, and national unity. In order to create a political stability conducive to the economic and social development, and the alleviation of poverty, Cambodia have to be a state of law. The development of liberal democracy and the respect of human rights must be firmly promoted.

The Royal Government continues to cooperate with international organizations to repatriate and resettle Cambodian refugees into the society. It would stop at any price the return of the genocidal regime and the reoccurrence of the recent past tragedies. The hard-line leaders of the outlawed Khmer Rouges would be put on trial. In the meantime, the Royal Government would reinstate some former servicemen into the Royal Armed Forces. Under the chairmanship of His Majesty the King, the November 13 statement clearly emphasized that the working group in charge of military affairs must immediately and properly implement the agreements set forth in the spirit of the November 12-13 summit. The Kingdom of Cambodia has full sovereignty. It is a unified state, not a seceded state.

The Royal Government adheres to the principle of democratic pluralism and to the respect of human rights for which it strongly believes they are fundamental to the social progress. The democratization and liberalization of all social fabrics must be rapidly addressed, because they are the essential forces of economic and social development. The Royal Government assures and protects the freedom of its citizenry as granted in the Constitution, the Universal Declaration of Human Rights, the Covenants on Civil and Political Rights and Social, Economic and Cultural Rights, and the Convention on the Rights of Women and Children. It strongly opposes racial hatred. The overall structure of the state run human rights institution would be upgraded.

To date, Cambodia is party to six of the human rights treaties:

- International Covenant on Economic Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- Convention on the Rights of the Child (CRC).

Cambodia has also signed the Convention on the Rights of Persons with Disabilities (CRDP) and the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (CMW). Signing a treaty signifies a commitment by the Government to ratify the treaty in the near future.

Cambodia has also ratified a number of optional protocols to these treaties which impose additional obligations on the Government: the Optional Protocol to the Convention against Torture (OPCAT); the Optional Protocol to CEDAW; and the two Optional Protocols to the Convention on the Rights of the Child dealing with child soldiers and with child exploitation (CRC-OPAC and CRC-OPSC).

NATIONAL LEGISLATION ON THE HUMAN RIGHTS TO WATER AND SANITATION

NA

NATIONAL PROGRAMMES TOWARDS THE FULFILLMENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

N/A

RECOMMENDATIONS FROM THE UNIVERSAL PERIODIC REVIEW ON THE HUMAN RIGHTS TO WATER AND SANITATION

There was no specific recommendation from the Universal Periodic Review on the human rights to water and sanitation. However, the Govt of Cambodia has addressed the water and sanitation issues in its Retangular Strategy, National Strategic Development Plan, and sectoral plan of Ministry of Rural Development and Ministry of Industry, Mime and Energy in order to provide the accessible of water and sanitation to all people.

WHAT DOES UN-HABITAT DO TO PROMOTE THE RIGHTS TO WATER AND SANITATION IN CAMBODIA?

UN-Habitat has implemented the Water for Asian Cities (WAC) Programme and Mekong Region Water and Sanitation (MEK-WATSAN) Initiative in Cambodia. Both WAC and MEK-WATSAN combine policy dialogue and normative work with on-the-ground pilot and demonstration water and sanitation projects focusing on pro-poor water and sanitation service delivery. Innovations that these programmes introduce include Water Demand Management, Decentralised Waste Water Management, Human Values Based Water, Sanitation and Hygiene Education, Rainwater harvesting and participatory poverty and environmental planning.

3.3 Pacific Regional

The human rights to safe drinking water and sanitation

COUNTRY PROFILE

A summary of the 14 countries covered by the two UN Multi Country Offices (Fiji and Samoa) covering the Cook Islands, Fiji, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

Among the Pacific island countries (an estimated 10 million in 2011), only half of the population has access to improved sanitation and drinking water. Only one out of eight people have piped water in their homes. Sixteen percent of the entire population still practice open defecation. A general lack of

information and awareness on diseases associated with contaminated water aggravates the sanitation and hygiene problem in the region. Furthermore, a 2010 WHO/UNICEF Joint Monitoring Programme (JMP) report indicates that the region as a whole is unlikely to meet the water and sanitation MDG target of halving its population without access to improved water supply and sanitation by 2015.

SUMMARY OF SELECTED COUNTRY PROFILES

	Fiji	Kiribati	PNG	Samoa	Solomon Islands	Tuvalu	Vanuatu
Head of State		President			Governor General	GG	President
Head of Government	PM		PM	PM	PM Lilo		PM Cacosil
Population	917,675	92,533	5,190,786	180,741	566,842	11,992	211,971
Life Expectancy	65.4	61	54.2	72.8	61.1	63.6	71.1
Infant mortality rate	17	52	56.7	20.4	24.3	17.2	21
Adult literacy	93.7%	NA	57.3%	99.7%	Est. 84%	NA	74%

Country profiles are available on: www.pacificwater.org/pages.cfm/country-information/

As member states of the United Nations, Pacific Island Countries (PICs) are obligated to respect the Universal Declaration of Human Rights, a constitutional document of the United Nations and customary international law. The human right to safe drinking water and sanitation is essential to ensure the right to life and derives from the right to an adequate standard of living, both of which are guaranteed under the Universal Declaration of Human Rights.

PICs have ratified a number of international treaties. At the international level, the human right to safe drinking water and sanitation derives from the right to an adequate standard of living as provided for in, inter alia, article 25 of the Universal Declaration of Human Rights and article 11 of the International Covenant on Economic, Social and Cultural Rights. This right has also been explicitly recognized by the General Assembly (resolution 64/292), and reaffirmed by the Human Rights Council (resolutions 15/9 and 16/2) in 2010 and 2011. The human right to safe drinking water and sanitation means that everyone is entitled to water and sanitation which is safe, available, accessible, affordable and acceptable. This right must be guaranteed in a non-discriminatory manner, and the State is obliged to take concrete and targeted steps towards ensuring universal access to water and sanitation to the maximum of available resources.

SUMMARY OF RATIFIED TREATIES

	Fiji	Kiribati	PNG	Samoa	Solomon Islands	Tuvalu	Vanuatu
Convention on	Yes	Yes	Yes	Yes	Yes	Yes	Yes

the Rights of the Child							
Convention on the Elimination of All Forms of Discrimination against Women	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Convention on the Rights of Persons with Disabilities,	Signed protocol	Yes	Yes	?	Signed convention	?	Yes
International Covenant on Economic, Social and Cultural Rights (ICESCR)	No	No	Yes	No	Yes	No	No
the International Covenant on Civil and Political Rights	No	No	Yes	Yes	No	No	Yes

Human right to water and sanitation specifically under article 14 of the Convention on the Elimination of All Forms of Discrimination against Women and article 24 of the Convention on the Rights of the Child, treaties . The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, are core human rights treaties.

BACKGROUND

Pacific Island countries have uniquely fragile water resources due to their small size, lack of natural storage, competing land use and vulnerability to natural hazards and climate change

In the Pacific, the SPC-SOPAC Division Water and Sanitation Programme is the mandated technical lead in the region for water resources and the provision of water supply and sanitation services. <http://www.pacificwater.org/> The Pacific Regional Consultations on Water and Sanitation (July 2013) noted that efforts to improve water and sanitation in the region are not keeping up with the significant and growing impacts of population growth, urbanisation, natural disasters and climate change.

Further support to the water and sanitation sector include the Pacific Regional Infrastructure Facility (PRIF), the Pacific WASH Coalition, Pacific Humanitarian Team and the WatSan Cluster both regionally and nationally (led by UNICEF) address post-disaster response.

The Special Rapporteur on the human right to safe drinking water and sanitation conducted an official visit to Kiribati and Tuvalu in July 2012 in order to examine the situation of the human rights to water and sanitation in the two countries.

NATIONAL LEGISLATION ON THE HUMAN RIGHTS TO WATER AND SANITATION

Each country in the Pacific has varying degrees of national legislation on the human rights to water and sanitation. By and large however, it would be fair to say that in a number of PICs such as Tuvalu, there is no comprehensive water and sanitation legislation, although there are several laws that cover specific elements of water and sanitation such as Water Supply Acts, Public Health Acts and legislation pertaining to local government arrangements and environmental planning. Building Codes where they do exist, suffer from enforcement and monitoring weaknesses and require strengthening regulations on water catchments, rain storage and sanitation systems attached to houses and buildings.

Legislative references can be found to water resources management is a provision in the Constitution for Government and councils to acquire freshwater resources during drought emergency periods such as is the case of Tuvalu. A number of countries have developed draft Water Resources Act and draft Water Resources and Sanitation Management Act.

Most recently in the Pacific, **Fiji's** Constitution (6 September 2013) states:

Right to housing and sanitation - 35.—(1) The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to accessible and adequate housing and sanitation. (2) In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

Right to adequate food and water: 36.—(1) The State must take reasonable measures within its available resources to achieve the progressive realisation of the right of every person to be free from hunger, to have adequate food of acceptable quality and to clean and safe water in adequate quantities.

(2) In applying any right under this section, if the State claims that it does not have the resources to implement the right, it is the responsibility of the State to show that the resources are not available.

Policies and Strategies: Some countries (Niue, Tuvalu, Palau, Kiribati, Nauru, Vanuatu) have National Water/Sanitation/IWRM policies and water efficiency strategies endorsed by both government and civil society stakeholders. Policy implementation and action are overseen by National Water Committees that play an advisory and technical role.

NATIONAL PROGRAMMES TOWARDS THE FULFILLMENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

There are a range of national programmes being implemented in PICs. IWRM plans have been promoted in recent decades to provide strategic direction to the design and implementation of investments needed to address, amongst other things, priority water resource infrastructure, water services and water resource management and governance needs (GEF – Implementing Sustainable Water Resources and Wastewater Management in Pacific Island Countries). This programme is

further supported by the EU IWRM National Planning Programme, linked to the GEF demo projects to assist with strengthening the enabling environment for IWRM.

Other programme/donor partners include AusAID, New Zealand Aid Programme, the Asian Development Bank, the World Bank, UNICEF, Look and Learn Environmental Education with a range of sector focus from infrastructure, legislative reform, capacity building and community outreach. The Pacific Water Action matrix provides a comprehensive list of water programmes (see links below).

<http://www.sopac.org/index.php/sopac-programmes/water-and-sanitation-programme>

<http://www.pacificwater.org/pages.cfm/water-services/water-sanitation-hygiene-programme/sanitation-hygiene/pacific-wash-coalition-wsscc-activities/>

RECOMMENDATIONS FROM THE UNIVERSAL PERIODIC REVIEW ON THE HUMAN RIGHTS TO WATER AND SANITATION

See: www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx - Documentation by country / Outcome of the Review / Report of the Working group

Drawing on the recommendations from the Special Rapporteur's 2012 visit to 2 Pacific countries and noting that OHCHR Pacific Office's mention of the significant impacts of Round One in the Pacific¹¹¹, the following are points of interest and whilst are specific to the nation of Tuvalu, can also be considered appropriate for its Island State neighbours. The reports can be accessed at

<http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/AnnualReports.aspx>

The Special Rapporteur calls on the Government, individuals and all relevant stakeholders to fully embrace, with determination and perseverance, the realization of these fundamental human rights in this complex environment. To be able to do so, it is critical that a comprehensive and integrated approach be adopted, including capacity-building of human resources, institutional development, technology and infrastructure, public awareness and education.

Furthermore, it is important to recall that investment in more expensive technologies does not necessarily lead to significant improvements in service, while investing in low-cost, high-efficiency technologies can dramatically reduce the amount of funding required to achieve the rights. Moreover, investments that take the life-cycle cost of water or sanitation improvement into account, or that are specifically directed towards the maintenance and operation of new and existing services, are essential so as to avoid any sort of retrogression or slippage in ensuring the human rights to water and sanitation.

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- ¹¹¹ Signing and ratification of human rights treaties: e.g. Palau (signatures); Vanuatu (CAT); Nauru (CEDAW, CAT, OPCAT).
 - Stepping up work around UN human rights treaty reporting: e.g. Solomon Islands, Nauru, Kiribati.
 - Open invitations issued to UN Special Procedures, by Marshall Islands, Nauru, Palau, PNG and Vanuatu.
 - Steps towards the establishment of a National Human Rights Institution: Samoa, Solomon Islands, Palau, Vanuatu
 - Leading to legislative reviews, drafting and amendments.

At the same time, those countries most responsible for the current climate change situation should not turn their backs on Tuvalu, but rather they should comply with their legal obligations to prevent or remedy the impacts of climate change on the human rights of individuals and communities. Furthermore, in the same way that Tuvalu is obliged to take steps to ensure that international aid allocations for its water and sanitation sectors are sustainable and support progressive realization, international donors have a corresponding obligation to facilitate this process.

The Special Rapporteur recommends that:

- 1) The Government of Tuvalu, which bears the main responsibility for the realization of the human rights to water and sanitation, takes concrete and targeted steps within the maximum of available resources, including by seeking international cooperation aid and assistance, to make these rights a reality for all;
- 2) The Government take the lead in determining the priorities for the water, sanitation and hygiene sectors and integrate donors' initiatives and funds into the Government's activities in order to ensure greater sustainability of interventions and impact on the lives of Tuvaluans;
- 3) Access to water and sanitation be affordable to all, in particular to those individuals who have a lower income. The cost of water, sanitation and hygiene must not compromise access to other human rights, such as food, housing or education. The Government should bear this in mind when discussing and adopting new water tariffs or when advancing the use of composting toilets. Innovative mechanisms, such as the creation of a revolving fund, saving on financial resources by harvesting more water from the government buildings, as well as the provision of targeted subsidies could help to support families who lack the necessary resources to provide for these solutions;
- 4) The establishment of a trust fund for water and sanitation supply be considered. The Special Rapporteur supports the initiative by the International Conference on Water and Wastewater Management to set up a trust fund by increasing the airport tax by US\$1;
- 5) The Government of Tuvalu, the international community, civil society and communities continue to promote the introduction of composting toilets, which will not only enable water savings, but will also avoid many problems, including health risks and pollution of water resources caused by inadequate wastewater management;
- 6) "Hardware" provided by donors in the form of project funding be accompanied by equally relevant "software" measures, namely information and awareness-raising regarding the maintenance of water tanks, pipes and gutters, and the importance of hygiene practices, which should be ensured even after the completion of the project;
- 7) Countries that have not already done so, ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as well as the Optional Protocols thereto, and other core international human rights treaties;
- 8) Pacific Island Governments should establish a solid legal and institutional framework to implement the human rights to water and sanitation taking into consideration changing climate patterns and their impacts on water and sanitation. Legislation should contain clear standards specifying that when new buildings are constructed either by the Government or by donors, water harvesting systems are installed;

- 9) **Governments to continue to identify the actual needs of its people, including women and children, by holding participatory discussions and seek targeted international assistance for the identified needs in the context of the complex environment;**
- 10) **The Special Rapporteur believes that placing the rights to water and sanitation at the centre of climate change discussions and planning will promote an adaptation process that place people in the centre.**

The Second Round of UPR in the Pacific:

- 2013: Tonga and Tuvalu
- 2014: Vanuatu, New Zealand and Fiji
- 2015: Kiribati, Marshall Islands, Australia, Federated States of Micronesia, Nauru
- 2016: Palau, PNG, Samoa, Solomon Islands

WHAT DOES UN-HABITAT DO TO PROMOTE THE RIGHTS TO WATER AND SANITATION IN THE PACIFIC?

- Participatory Slum Upgrading Programme (Fiji, PNG, Solomon Islands, Tuvalu and Vanuatu) – in the Solomon Islands, 2014 – testing guidelines on access to basic services for all
- Regional Institutional Strengthening and Knowledge Management Support to Pacific Island Countries to Strengthen Implementation of the Pacific Urban Agenda under the Pacific Plan
- Papua New Guinea Settlement Upgrading Programme
- Samoa City Development Strategy Programme
- Cities and Climate Change Initiative - Ecosystems-based Adaptation in Pacific SIDS coastal cities
- Attempted to secure EU funding for the Solomon Islands in 2012 through ACP-EU Water Facility's Restricted Call for Proposals 2011 for the Promotion of the Millennium Development goals: Sanitation in poor peri-urban and urban areas in ACP countries. The project was entitled "Solomon Islands Urban Sanitation and Hygiene Programme, improving sanitation and hygiene in un-served urban settlements". Whilst it was unsuccessful in securing funds, there remains real interest by donors and national partners alike to secure alternate sources of financing the concept.
- The Global Water Operators' Partnerships Alliance were developing a relationship with the Pacific Water and Wastes Association but am uncertain of what the status of this is

3.4 Indonesia

The human rights to safe drinking water and sanitation

COUNTRY PROFILE

Head of state	Susilo Bambang Yudhoyono
Head of government	Susilo Bambang Yudhoyono

Population	247,000,000 (WHO, 2009)
Life expectancy	68/71 (WHO, 2009)
Under-5 mortality	31 (WHO, 2009)
Adult literacy	90 (UNDP, 2005)
Ratifications	no specific ratification of international treaties regarding water and sanitation management, but a complete set of 296 records of ratified treaties made by Government of Indonesia is listed on web address below http://www.bphn.go.id/jdih/index.php?action=reg&cat=regKonvensi

BACKGROUND

In July 28th 2010, UN has officially endorsed resolution no. 64/292 which regards access of water and sanitation as part of Human Rights. The implementation of the rights doesn't necessarily mean that every person shall freely exploit water resources, hence it is limited by other person's right to gain access and harness its value. Therefore a community based water and sanitation management is a promising practice to be delivered. Another common practice is trusting the task to provide and managing water resources to official institution. The decision to pick between these two options should be made to ensure water and sanitation services may be benefited to most of the population. Other than that, institutionalized or community based practice should be competitively offer consistent services and a more sustainable way to provide water and sanitation.

On the other hand, advocacy to the rights of water and sanitation speaks highly on population's necessity as a consumer which demands safe and good quality of water delivered to their houses on a daily basis. In this context of advocacy, the legislation implementation on rights of water and sanitation should govern basic and mandatory requirements to provide and manage public access of water and sanitation. It is never an easy task, since the optimum benefit is arguably hard to be achieved, without public willingness to put their trust in specific parties who will be managing the water resources for them and keep their end of the bargain by supporting the consequences of the redeployment of authority.

NATIONAL LEGISLATION ON THE HUMAN RIGHTS TO WATER AND SANITATION

In Indonesia regulations on human rights regarding water and sanitation are arranged in several levels, namely the Indonesia Act, Government Regulations, President Regulations, Ministry Regulation and also Local Government Regulation. The National Act consists of: Indonesia Act No. 7 year 2004 on Water Resources. Indonesia Act No 32 year 2009 on the Protection and Management of the Environment, Indonesia Act Number 36 Year 2009 on Health, Indonesia Act No. 1 year 2011 on Housing and Settlement Region.

While for the Government Regulation consists of Government Regulation No. 22 Year 1982 on Water Regulation. Government Regulation Number 20 year 1990 on Water Pollution Control. Government Regulation Number 74 year 2001 on the Management of Hazardous and Toxic Waste. Government Regulation Number 16 year 2004 on the Development of Water Supply System.

NATIONAL PROGRAMMES TOWARDS THE FULFILLMENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

The water and sanitation programs are being implemented on a massive scale in Indonesia, consist of: Community Water Supply (PAMSIMAS), Community Sanitation (SANIMAS), Acceleration Settlement Sanitation Development (PPSP), Indonesia Urban Water and Sanitation Hygiene (IUWASH) funded by USAID, Indonesia Infrastructure Initiative (INDII) funded by AUSAID, Urban Sanitation Development Program (USDP) funded by World Bank, Water Sanitation and Hygiene in School Empowerment by Unicef, etc .

The scope of assistance is diverse among each program. But the common consensus between stakeholders brings the divisions of subsectors such as water supply management, domestic waste water management, solid waste management, settlement drainage management, and behavioural change campaign.

RECOMMENDATIONS FROM THE UNIVERSAL PERIODIC REVIEW ON THE HUMAN RIGHTS TO WATER AND SANITATION

See: www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx - Documentation by country / Outcome of the Review / Report of the Working group

No spesific recommendation related to human rights to water and sanitation. Other than that in article 77.7 we may found this recommendation regarding Capacity-building/cooperation/sharing of best practices which is quite relevant to water and sanitation issues:

- (a) Indonesia is encouraged to consider engaging in further dialogue at the regional and international level, and share best practices, as requested by States during the interactive dialogue;
- (b) Indonesia is encouraged to identify its capacity building needs related to the Universal Periodic Review follow-up and seek regional and international cooperation in this regard, including through integration of the Universal Periodic Review recommendations, as appropriate, into its national development strategy and into its dialogue with relevant stakeholders through existing mechanisms. Such capacity-building needs could pertain, inter alia, to issues such as harmonization of local laws with national and international standards or to strengthening national human rights institutions;
- (c) It was recommended that additional capacity-building measures be taken in support of programmes and projects on women and children.

WHAT DOES UN-HABITAT DO TO PROMOTE THE RIGHTS TO WATER AND SANITATION IN INDONESIA?

From 2008 to 2010 UN-Habitat promoted and improved sanitation in Aceh trough Aceh Sanitation Assessment and Assistance Program (ASSAP) this project purpose are rehabilitated and improved sanitation system including community behavior changes. In 2010 to 2012 UN-Habitat did the Capacity building to Local Governance in promoted Integrated Sustainable Municipal Solid Waste Management trough Project Training for Improved Municipal Solid Waste Management (TIM-SWM). In 2012 to 2013 UN-Habitat facilitating Kupang District and Belu District in conducting the study and

the preparation of the medium-term program of sanitation, this program is an Indonesian government program known as Accelerated Development of sanitation settlements (PPSP) which includes: management of domestic waste water, solid waste management, settlement drainage and water supply for sanitation supplies.

3.5 Sri Lanka

The human rights to safe drinking water and sanitation

COUNTRY PROFILE: SRI LANKA

Head of state	His Excellency Mahinda Rajapakse
Head of government	His Excellency Mahinda Rajapakse
Population	21 million
Life expectancy	74 yrs
Under-5 mortality	12.20
Adult literacy	91

Ratifications

- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- International Convention on Elimination of All Forms of Racial Discrimination
- Convention on Elimination of All Forms of Discrimination Against Women
- Convention Against All Forms of Torture and other Cruel Inhuman and Degrading Treatment or Punishment
- Convention on the Rights of the Child
- International Convention on Protection of the Rights of All Migrant Workers and Their Families
- Convention on the Rights of Persons with Disabilities

BACKGROUND

Sri Lanka is a Lower Middle Income country recovering from the impacts of nearly 30 years of conflict in the Northern and Eastern provinces. Despite the conflict Sri Lanka has maintained a high human development index score and achieved MDGs related to water and sanitation. Sri Lanka has been able to meet its 2015 MDG target of 85% coverage for water and sanitation, as 98.3% of the total population has access to sanitation while 91% have access to drinking water. However only 86.4% of the total households have access to a toilet not shared by other households, while only 30.5% has pipe borne water supply facilities. Sri Lanka plans to achieve 100% coverage for water and sanitation by 2020, while improving access to pipe borne water to rural communities. The National Water Supply and Drainage Board (NWSDB) is the key authority in charge of water supply in Sri Lanka under the focal Ministry of Water Supply and Drainage.

NATIONAL LEGISLATION ON THE HUMAN RIGHTS TO WATER AND SANITATION

- The Rural Water Supply and Sanitation Policy, 2001
- The National Policy on Drinking Water, 2007
- The National Policy on Sanitation, 2007
- The National Rainwater Policy and Strategies, 2005
-

NATIONAL PROGRAMMES TOWARDS THE FULFILLMENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

- Large scale water supply projects in urban areas with large foreign finance component (35 projects)
- Small and medium scale projects with government funding (47 projects)
- Water supply projects for emerging small townships
- Piped sewerage for municipality areas
- Rainwater harvesting programme
- Lunawa Environment and Community Development Project
- Community water supply and sanitation project

RECOMMENDATIONS FROM THE UNIVERSAL PERIODIC REVIEW ON THE HUMAN RIGHTS TO WATER AND SANITATION

See: www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx

- Documentation by country / Outcome of the Review / Report of the Working group

WHAT DOES UN-HABITAT DO TO PROMOTE THE RIGHTS TO WATER AND SANITATION IN FROM 2011 TO 2015?

Improve access to sanitation for 30,000 (120,000 persons) households in the Northern and Eastern Provinces of Sri Lanka, through the construction of 30,000 toilets

Improve access to water for 90,000 persons through the construction of common wells and Rain Water Harvesting Tanks in the Northern and Eastern provinces of Sri Lanka.

3.6 Afghanistan

The human rights to safe drinking water and sanitation

COUNTRY PROFILE

Head of state

President Hamid Karzai

Head of government President Hamid Karzai
Population 30,419,928 accurate as of Feb 2013
Life expectancy 49 years old (at birth) adopted from UNDP website
Under-5 mortality Male (per 1000 lives birth) is 101.10 as of 2011 for female it is (per 1000 lives birth) 98.7 as of 2011
Adult literacy Adult literacy rate (15 and above-age group) is 34% with 18% for women and 50% for men Ref: UNESCO-2012
Ratifications

Afghanistan is a party to the following principle international Human Rights Treaties

- 1- The International Covenant on Civil and Political Rights (CCPR) was ratified on 24th April 1983.
- 2- The International covenant on Economics, social and cultural Rights (CESCR) was ratified on 24th April 1983.
- 3- The International Convention on the Elimination of all Forms of Racial Discrimination (CERD) was ratified on 5th August 1983.
- 4- The convention on the Elimination of all Forms of Discrimination against Women (CEDAW) was ratified on 5th March 2003.
- 5- The Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) was ratified on 26th June 1987.
- 6- The Convention on the Rights of the Child (CRC) was ratified on 27th April 1994.
- 7- The Optional Protocol of the Convention of the Rights of the Child (CRC-OP-SC) on the sale of children, child prostitution and child pornography was ratified on 19th October 2002.
- 8- The Optional Protocol to the Convention on the Rights of the Child (CRC-OP-AC) on the involvement of children in armed conflict was ratified on 24th Sept. 2003.

Adopted from: Afghanistan Independent Human Rights Commission (AIHRC) website

In order to get further information about treaties/conventions that Afghanistan is formally party of it, please refer to the below website:

http://www.geneva-academy.ch/RULAC/state.php?id_state=1

BACKGROUND

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NATIONAL LEGISLATION ON THE HUMAN RIGHTS TO WATER AND SANITATION

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NATIONAL PROGRAMMES TOWARDS THE FULFILLMENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

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RECOMMENDATIONS FROM THE UNIVERSAL PERIODIC REVIEW ON THE HUMAN RIGHTS TO WATER AND SANITATION

See: www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx - Documentation by country / Outcome of the Review / Report of the Working group

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WHAT DOES UN-HABITAT DO TO PROMOTE THE RIGHTS TO WATER AND SANITATION IN AFGHANISTAN?

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3.7 Mongolia

The human rights to safe drinking water and sanitation

COUNTRY PROFILE

Head of state	President
Head of government	Prime Minister
Population	2,9 Million
Life expectancy	68.7
Under-5 mortality	18.9
Adult literacy	98.3
Ratifications	Convention on the Rights of the Child (1990) Convention on the Elimination of All Forms of Discrimination against Women (1980) Convention on the Rights of Persons with Disabilities (2008) International Covenant on Economic, Social and Cultural Rights (ICESCR))

BACKGROUND

The lack of adequate water supply and sanitation services is a major issue related to sustainable development in many parts of the developing world. This is also reflected in the Millennium Development Goals (MDGs), an integrated set of time-bound targets set at the United Nations Summit in September 2000 with the aim of ending extreme poverty worldwide by 2015. Mongolia is one of the countries committed to reaching this target. However, current data suggest that the MDGs for both water supply and sanitation may not be met, particularly in peri-urban and rural areas (UNICEF & UNDP 2008).

Peri-urban areas in Mongolia normally are referred to as “ger areas”. Here, people live in gers – the traditional Mongolian portable felt tent, also known as the yurt – and/or in simple, detached houses. Basic infrastructure services such as piped water, sanitation, proper roads, public transportation, etc. are poor or non-existent. The unplanned growth of ger areas along with the unprecedented pace of urbanisation brings with it many challenges, such as unemployment, traffic congestion, air pollution and adverse environmental impacts (World Bank 2010). In Ulaanbaatar, the capital of Mongolia, today, more than 60 percent of the population lives in peri-urban ger areas. However, the percentage of ger residents is also very high (about 50%) in secondary cities such as Darkhan, Erdenet and Khovd.

In 2000, the Mongolian government committed itself to achieving the MDGs. Mongolia adopted the MDGs as the government’s mid-term strategic goal of increasing the coverage of improved drinking

water source to 80%, and improved sanitation facility to 70% by 2015, measured against the 1990 baseline average.

NATIONAL LEGISLATION ON THE HUMAN RIGHTS TO WATER AND SANITATION

In the *Law of Mongolia on Water* (Parliament of Mongolia 2004: article 2.1) it is stated that “the legislation on water shall consist of the Constitution of Mongolia, the Law on Environmental Protection, the Law on water supply of cities and urban settlements and utilization of sterilization facility, this law and other legislative acts issued in conformity with them”. In addition there are many laws being relevant for the water supply and sanitation sector. A selection of key water related

Law	Year adopted
Law On Water*	1995, 2004
Law On Sanitation*	1998
Law On Environmental Protection*	1995
Law On Fees for the Use of Water and Mineral Water*	1995
Law On Subsoil*	1988
Law on Water Supply and Sewage in Cities and Settlements/Law on Urban and Settlement Areas' Water Supply and Sanitation/Law on Water Supply of Cities and Urban Settlement and Utilization of Sterilization Facility	?
Law on wastewater discharge and its fee	?

laws of Mongolia is compiled in below table.

NATIONAL PROGRAMMES TOWARDS THE FULFILLMENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

In Mongolia, there are several approved policies and programmes related to improved water and sanitation provision (UNDP 2010: 34). In 2008, a comprehensive *National Development Strategy* based on the *Millennium Development Goals* (MDGs) was adopted by the Government of Mongolia. The subsequent *Mongolian Action Programme for the 21st Century* of the Government of Mongolia (2008-2012) reflects and concretises Mongolia’s National Development Strategy. Also the *National Water Programme* (2010-2021) has been developed in close connection with the National Development Strategy.⁶

The following table gives on overview of programmes being relevant for the water supply and sanitation sector.

Name	Year enacted
Millennium Development Goals*	2000
Mongolian Action Programme for the 21 st Century (MAP-21) (2008-2012)*	2008
National Water Programme*	1999, 2010
Programme for supplying the population with water which meets hygienic and sanitary requirements	2008
Programme for reducing wastes	1999
Programme on Sanitation (2006-2015)	2005
Programme on Urban Development and Public Utilities	?
Programme on provision of safe drinking water to population of Mongolia (2008-2015)	?

RECOMMENDATIONS FROM THE UNIVERSAL PERIODIC REVIEW ON THE HUMAN RIGHTS TO WATER AND SANITATION

United Nations Country Team in Mongolia Universal Periodic Review – 19 April 2010

- Develop safe, appropriate and affordable systems for water and sanitation and safe disposal of household waste, as well as an infrastructure for recycling municipal waste and the recovery and disposal of hazardous waste.
- Promote knowledge of environment and proper behaviour and awareness of the impact of pollution.

WHAT DOES UN-HABITAT DO TO PROMOTE THE RIGHTS TO WATER AND SANITATION IN MONGOLIA?

There is no any activity has been done by UN-Habitat so far on WatSan in Mongolia.

3.8 Nepal

The human rights to safe drinking water and sanitation

COUNTRY PROFILE

Head of state Dr. Ram Baran Yadav, President
Head of government Khim Raj Regmi, Chairman, Council of Ministers

Population	26.66 million (2011)
Life expectancy	69 years
Under-5 mortality	54/1000
Adult literacy	65.9%
Ratifications	<p>List of ratified international treaties:</p> <ul style="list-style-type: none"> • Convention on the Rights of the Child, • Convention on the Elimination of All Forms of Discrimination against Women, • Convention on the Rights of Persons with Disabilities, • International Covenant on Economic, Social and Cultural Rights (ICESCR) • International Covenant on Civil and Political Rights • Optional Protocol to the International Covenant on Civil and Political Rights • Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty • International Convention on the Elimination of All Forms of Racial Discrimination • Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour • Right to Organise and Collective Bargaining Convention • Convention concerning Forced or Compulsory Labour • Equal Remuneration Convention • Discrimination (Employment and Occupation) Convention • Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field • Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea • Geneva Convention relative to the Treatment of Prisoners of War • Geneva Convention relative to the Protection of Civilian Persons in Time of War • International Convention for the Suppression of the Financing of Terrorism

BACKGROUND

Nepal is located in South Asia between India and China, with the magnificent Himalayan range to the north and the flat Gangetic plains to the south. Although it is a relatively small country with an area of 147,181 square kilometers, the country has diverse topography and landscape as the elevation

rises from 64 m to 8448 meters above mean sea level, with a short distance of about 200 km. Because of this topography, the country is rich in cultural and biological diversity. The country is going through a phase of political transition as it has recently emerged from a decade long armed conflict, but it is making steady progress in the areas of water and sanitation. The country has met its Millennium Development Goal (MDG) target on water supply and is making rapid progress on sanitation to meet the MDG target and the national target of 100% water and sanitation coverage by 2017.

NATIONAL LEGISLATION ON THE HUMAN RIGHTS TO WATER AND SANITATION

Nepal's Interim Constitution, 2007 has mentioned water and sanitation as basic rights of the population. Article 16 of Nepal's Interim Constitution, 2007 establishes every person's right to live in a clean environment as a fundamental right. It also states every citizen's right to basic health services. The Interim Constitution also provides that ratification of, accession to, acceptance of or approval of treaties or agreements on subject of natural resources, and the distribution of their uses be done by a majority of two-thirds of the members present at a joint sitting of both Houses of Parliament. Provided that out of the treaties and agreements as referred, if any treaty or agreement is of an ordinary nature, which does not affect the nation extensively, seriously or in the long term, the ratification of, accession to, acceptance of or approval of such treaty or agreement may be done at a meeting of the House of Representatives by a simple majority of the members present.

The Water Resources Act, 2049 (1992) states that all water resources of the country are owned by the State and the Act allows their uses under two conditions: one, by the license issued by the prescribed authority, and the second, without license, for individual use such as for drinking, household purposes, running household water mill and boating. The Act also prescribes a hierarchy of uses of water in which drinking and household use is given first priority.

The Local Self-Governance Act, 2055 (1999) aims to institutionalize the decentralization process by promoting the participation of socially and economically backward classes including all local people in the process of bringing balance and equal distribution of the mobilization of resources and fruits of development. This Act has intended to grant the power of formulation necessary plans and execution that of in the local level. Having such broad objectives local governments have been granted enough power in controlling and managing water resources of the local area and the Act has also made the local bodies responsible for providing water and sanitation services to the people.

NATIONAL PROGRAMMES TOWARDS THE FULFILLMENT OF THE HUMAN RIGHTS TO WATER AND SANITATION

Government of Nepal (GoN) formulated the Nepal National Sanitation Policy and Guidelines for Planning and Implementation of the Sanitation Programme in 1994. The policy envisages the holistic attributes of sanitation and states that sanitation should not be understood just as latrine construction alone, but as a package of activities and services related to personal, households and environmental hygiene. The National Solid Waste Management Policy 1996 aims to make the local bodies competent in the field of management of solid wastes to provide more skilled and effective sanitation services. The National Water Supply Sector Policy (Policies and Strategies) 1998 has

highlighted that hygiene and sanitation are integral parts of water supply programmes. Formulated in 2004, the Rural Water Supply and Sanitation National Policy and Strategy and Action Plan have made the provision to allocate 20 percent of the Hygiene Improvement Framework budget to health promotion, hygiene behavior change and safe excreta disposal. These policies, strategies and action plan have recognized the roles of the users' committee, schools and local bodies.

The GoN formulated the Sanitation and Hygiene Master Plan in 2011 to maintain uniformity and standards in program approaches. The Master Plan aims to unifying stakeholders' through formation and mobilization of WASH Coordination Committees in the Central, Regional, District, Municipality and VDC levels, fulfill resource gaps in the sector through cost sharing, resource pulling/pooling arrangements and co-funding arrangements at local levels and ultimately achieve universal coverage by 2017.

RECOMMENDATIONS FROM THE UNIVERSAL PERIODIC REVIEW ON THE HUMAN RIGHTS TO WATER AND SANITATION

See: www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx - Documentation by country / Outcome of the Review / Report of the Working group

Although there were no specific recommendations by the UPR on human rights to water and sanitation, the following recommendations are related to water and sanitation:

- 106.41 Intensify efforts in providing basic services to vulnerable or marginalized groups or communities particularly providing quality health and education services and creating more employment opportunities
- 106.43 Reinforce its efforts in the area of the fight against poverty with a view to attaining the Millennium Development Goals and to request the necessary financial and technical assistance in this regard

In addition, the Compilation prepared by the Office of the High Commissioner for Human Rights as part of the UPP includes the following points which are related to right to water and sanitation:

- UNCT and the High Commissioner stated that the effective enjoyment of the right to food remained a serious problem throughout the country.106 WFP noted that three and a half million people were facing food insecurity. Basic services and markets were beyond the reach of many people in some regions.107 UNCT indicated that, although food insecurity persisted throughout the country, groups such as Dalits, indigenous peoples, former bonded labourers, persons with disabilities and people living with HIV/AIDS were particularly affected. CESCR was also concerned at information that persons belonging to the lower castes were denied access to public wells.
- UNCT noted that an outbreak of diarrhoea in the western regions in 2009 had reportedly claimed 367 lives, with Dalits constituting nearly 40 per cent of the deceased.

WHAT DOES UN-HABITAT DO TO PROMOTE THE RIGHTS TO WATER AND SANITATION IN NEPAL?

UN-Habitat has been implementing the Water for Asian Cities Programme in Nepal since 2005 with a focus on capacity building, environmental sanitation and water supply related activities in support of ADB assisted projects including Kathmandu Valley Water Services Sector Development Programme,

Urban and Environment Improvement Project, Small Towns Water Supply and Sanitation and Integrated Urban Development Programme. The programme has implemented 55 projects in 35 municipalities, 18 small towns and 8 peri-urban areas. These projects are designed to help local people improve their access to water supply and sanitation.

UN-Habitat is also executing the Global Sanitation Programme in Nepal which is promoting sanitation in six districts and six municipalities and is in the process of expanding the programme to nine additional districts. The programme, which is supported by the Water Supply and Sanitation Collaborative Council (WSSCC), is helping the Government of Nepal in meeting its target of providing access to improved sanitation facilities to all by 2017.



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