



# AFFORDABILITY

*and the human rights to  
water and sanitation*

A/HRC/30/39

*A report by the Special Rapporteur on the  
human rights to water and sanitation*  
**Léo Heller**

# INTRODUCTION

## *why affordability?*

Where water or sanitation services are available but not affordable, people will not be able to use sufficient amounts of water and adequately maintain latrines, or will turn to cheaper, unsafe sources or practices, or will compromise the realization of other human rights such as food, housing, health or education.

This is all the more important in the context of austerity measures that have resulted in the significant overall burdening of people. Particularly during times of economic and financial crises, decisions to introduce or raise tariffs need to be carefully considered. Where price rises happen concurrently with rising unemployment and social spending reductions, they leave many unable to afford essential services.

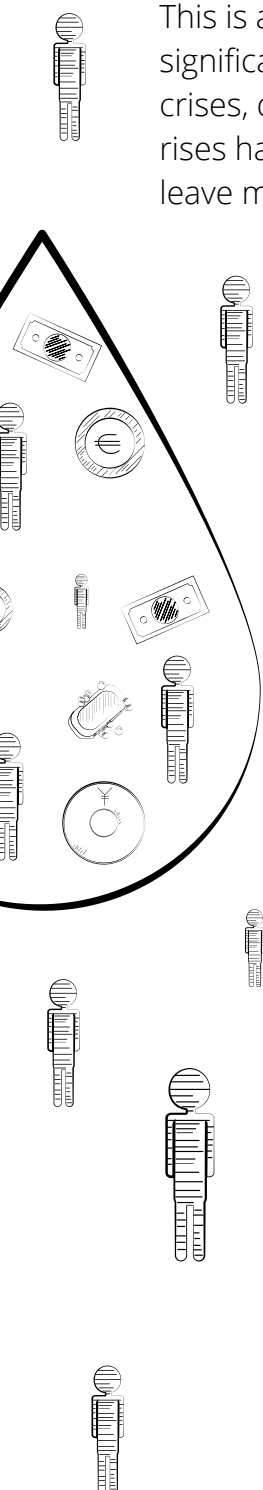
## *why human rights?*

Affordability, as a human rights criterion, requires that the use of water, sanitation and hygiene facilities and services is accessible at a price that is affordable to all people. The human rights to water and sanitation have important implications regarding how payment for water and sanitation services are charged. Human rights call for safeguards in the process of setting tariffs and determining subsidies, both in procedural and substantive terms, which include the human rights principles of transparency, access to information, participation and accountability. They oblige States to ensure that the cost of accessing water and sanitation is affordable and meets the needs of marginalized and vulnerable individuals and groups.

## *affordability standards*

Paying for these services must not limit people's capacity to acquire other basic goods and services guaranteed by human rights. Affordability standards must be considered together with criteria of adequate quantity and quality of water and sanitation to ensure that human rights are met.

Affordability provisions in water and sanitation laws are quite common. The challenge is to translate general provisions into concrete affordability standards. It is inadequate to set a generally applicable affordability standard at the global level. Any such standard would be arbitrary and cannot reflect the challenges people face in practice and the context in which they live, including how much they need to spend on housing, food and the realization of other human rights. The affordability of water and sanitation services is highly contextual, and States should therefore determine affordability standards at the national and/or local level.

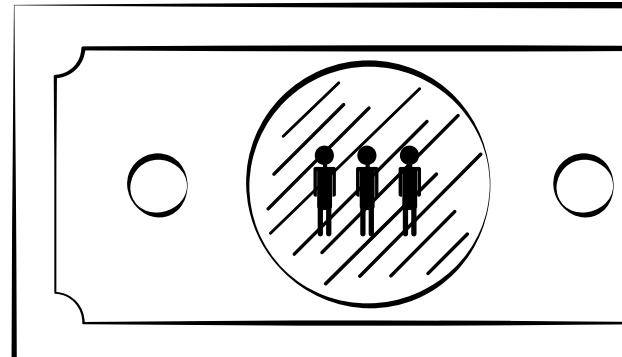


# *economic vs human rights perspectives*

From the perspective of human rights, the starting point for State decision-making on public financing and policy for water and sanitation service provision is that water and sanitation must be affordable to all.

This differs starkly from the purely economic perspective. The focus in the context of water and sanitation services tends to be on cost recovery, whether full or partial.

Economic perspectives and human rights perspectives are not impossible to reconcile, but human rights require ensuring affordable service provision for all, regardless of ability to pay, and economic instruments must be (re-)designed to achieve this objective.



## *affordability and sustainability*

When seeking to ensure affordability in practice, measures to implement human rights often need to be reconciled with broader considerations of ensuring environmental and economic sustainability. "Social sustainability" in the form of affordable access must not be jeopardized in favour of measures that aim to secure economic and environmental sustainability.

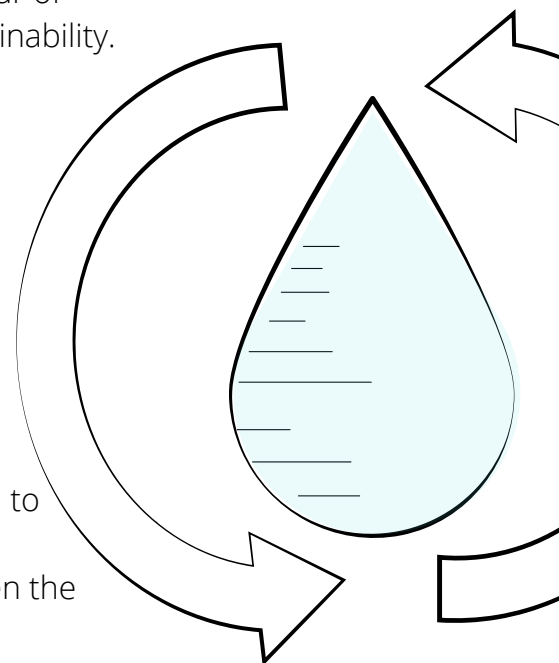
To be environmentally sustainable, there must be sufficient water resources of good quality available to serve existing and future users.

To ensure economic sustainability, some have argued for full cost recovery through tariffs, i.e. for water and sanitation service providers to charge full operational costs to existing and future users and wastewater needs to be properly disposed. .

Where there are sufficient numbers of well-off people compared to those who are unable to pay the full cost of a service, full-cost recovery may be possible, with some cross-subsidization between the former and the latter.

In many developing countries, there are insufficient numbers of people who are well-off to provide a cross-subsidy. In these situations, full cost recovery only through tariffs will not be a feasible option. Public finance may be needed in such instances to ensure affordability for all households.

Even in countries with a relatively well-off population, for sanitation services in particular, governments frequently provide significant amounts of public funding in order to make the service financially viable and to protect public health.



# KEY QUESTIONS

## *should water be free?*

Water and sanitation do not necessarily have to be available free of charge. The human rights framework does not rule out tariffs and user contributions for water and sanitation provision. The human rights framework recognizes that revenues have to be raised in order to ensure sustainable services. However, there are situations where water and sanitation services need to be provided for free in order to become available, and it is the State's role to identify these critical situations..

## *what if people cannot pay?*

Where people face an inability to pay, the human rights framework indeed requires free services that must be financed through sources other than user contributions. Disconnection of services due to an inability to pay for the service is a retrogressive measure and constitutes a violation of the human rights to water and sanitation.

## *why do revenues have to be raised?*

If everyone obtained water and sanitation free of charge, that could actually harm low-income households by depriving governments and service providers of the revenue needed to expand and maintain the service, posing a risk to the overall economic sustainability of the system or to the State's capacity to protect and fulfil other human rights.

Moreover, where a policy provides free water distributed through utility networks, this tends only to benefit those who have access to a formal water supply. As the majority of poor and marginalized individuals and groups in developing countries do not enjoy access to a formal water supply, they will not be able to access free water provided by utilities

## *how does affordability apply in informal contexts?*

Discussions on affordability often focus on tariffs in the context of networked supply. While there are important challenges, this ignores that many people living in disadvantaged areas and within marginalized communities do not benefit from public networks, but rely on on-site or communal, often informal, sanitation and water solutions. In many instances, these communities pay high prices for low-quality services. As informal service providers by definition tend not to be regulated for quality or affordability, they charge prices determined by what the market will bear or by price-fixing between providers (including cartel-like structures).

# WHAT ARE THE COSTS?



Thank you for shopping with us. Here are the costs for your water, sanitation and hygiene services.

12:01  
04.2020

WASH Receipt no.1

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DESCRIPTION	QUANTITY	PRICE
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<i>Construction, operation and maintenance of networked provision</i>	3	\$xxx
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<i>Construction, operation and maintenance of on-site solutions</i>	3	\$xxx
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<i>Hygiene materials, including soap and materials for menstrual hygiene management</i>	1	\$xxx
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<i>Opportunity costs</i>	1	\$xxx
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In addition to material costs of service provision, the time spent on collecting water outside the home must also be valued. As women and girls are largely responsible for collecting water, maintaining and cleaning sanitation facilities, and for ensuring the hygienic management of the household, these costs have an important gender equality dimension.

<i>Corruption</i>	1	\$xxx
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Even where services are nominally affordable to people, corruption may increase the cost of accessing services above official pricing. There may be a lack of transparency in decisions relating to the choice of technology or service provider, which can result in inappropriate – often more costly – choices being made. Corruption also affects prices directly when bribes have to be paid for repair work, connection or reconnection.

<i>Poor governance</i>	1	\$xxx
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States must work to ensure that the right incentives are in place such that providers improve the management of water and sanitation services, including through appropriate organizational structure, optimized running costs, efficient service delivery (e.g. low water losses), among other measures.

<i>Inaction</i>	1	\$xxx
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The lack of access to safe water, sanitation and hygiene underlies severe human costs such as poor health and high mortality rates, as well as major economic losses. While requiring large initial investments, in the long term the price of inaction is far greater than the cost of ensuring adequate wastewater management.

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<b>TOTAL</b>		\$xxx
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# FINANCING MECHANISMS

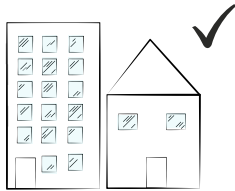
## 1. PUBLIC FINANCING

### *why public financing?*

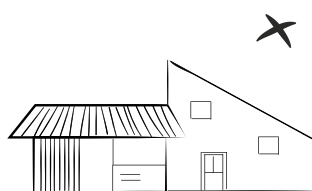
Public finance is very common in large-scale piped water and sewerage systems, with governments (and other funders, such as multilateral and bilateral donors) investing significantly in networks, water treatment plants, wastewater treatment plants and trunk sewers.

Provided that all households within a city are able to connect to use these services, this may be an efficient approach to ensuring that public finances are used well for water and sanitation service provision, even if it also results in subsidizing service provision for those who would not need such support to ensure affordability.

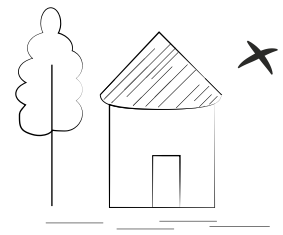
### *coverage of public financing*



*networked provision*



*informal settlements*



*rural and remote areas*

In the majority of developing countries, piped water and sewerage systems are accessible only to a minority of those living in urban areas – and to very few of those living in rural areas.

When implementing networked provision, it is essential that they are extended to all residents. Otherwise, public finance would disproportionately benefit comparatively better-off households.

Residents of informal settlements often do not enjoy formal service provision, receiving their services from a range of different, often informal and/or small-scale providers or through self-supply. Given this range of services that exists outside the formal system, any pricing, subsidy or tariff system can seem irrelevant to an often substantial part of the population.

Local governments often lack the capacity to support sustainable access to water and sanitation services, in particular in rural areas. As a result, donors and local governments have often turned to promoting community management approaches. In such instances, as in other contexts of self-supply, the human rights framework stresses that States have an obligation to support people in the realization of their human right to water and sanitation, where needed with financial assistance.

# *steps to ensure public financing benefits the most disadvantaged*

1

The first step to ensuring that public financing is targeted toward the most disadvantaged is to acknowledge the inherent inequalities and biases in the current distribution of public financing.

2

On that basis, States must adopt measures to reach the people who rely on public finance to ensure the affordability of water and sanitation services for all and to reduce inequalities in access. States need to reallocate resources to the most disadvantaged.

## 2. SUBSIDIES

Targeted subsidies can be provided at the household level based on income. In many cultures, however, there is significant stigma attached to the receipt of subsidies, in particular where the application for the subsidy becomes publicly known.

Targeting schemes that are based on levels of household income or expenditure may be costly, requiring administratively labour-intensive surveys to assess who is eligible, except when there is available information for other administrative needs such as taxes. Targeting is especially difficult where there is a large informal economy.

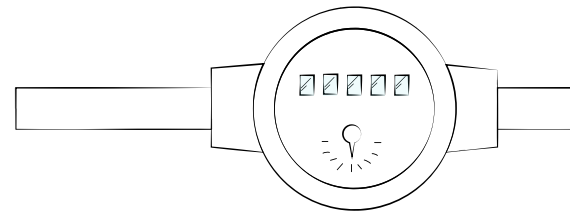
## *challenges in targeting measures*

- Target groups are not informed of the availability of subsidies or financial support;
- There is excessive paperwork or a requirement for specific pieces of documentation that low-income or marginalized people may not have;
- The target groups are not involved in the design of the mechanism;
- In most countries where subsidies are applied through tariff systems, these are only available to people connected to networks, thus excluding those who rely on kiosks, standpipes or public toilets;
- Often, due to an increasing block tariff structure, consumption subsidies do not benefit large families or multiple households sharing one water connection;
- Public financing is available only to those who have secure land tenure, thus excluding those living outside the formal legal system;
- Those who are responsible for allocating public funding engage in corrupt practices;
- Those who are connected to water supply services but not to sewerage networks are often disadvantaged by cross-subsidies between water and sanitation services. This subsidy results in persons who have a water connection but no sewerage connection subsidizing better-off people or households that have such a connection;
- In many instances, subsidies for water are targeted towards commercial or industrial users.

## 3. SOCIAL PROTECTION FLOORS

A broader mechanism for achieving access to water and sanitation services for people living in poverty is to put in place “social protection floors”.

These are nationally defined basic social security guarantees that ensure access to essential services, including water and sanitation, as well as providing basic income to those in need. Social protection floors can be particularly relevant for achieving gender equality and protecting marginalized or disadvantaged individuals and groups.



# 4. TARIFF SCHEMES

## *Flat Rates*

Flat rates are commonly used where meters are not installed, where a charge based on a certain volume of water used or sewage discharged would be impossible to implement.

## *Connection charges*

Charges to a household to connect to a service can be a barrier to gain access to an existing networked service. The costs of extending the services can be financed by incorporating them into standard service charges, thus removing this barrier.

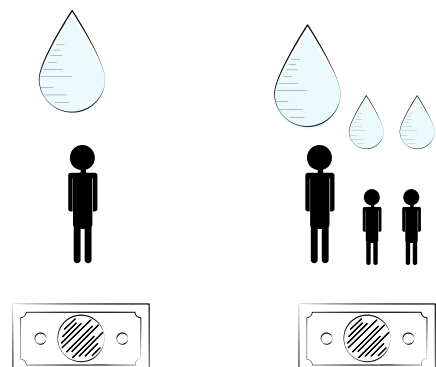
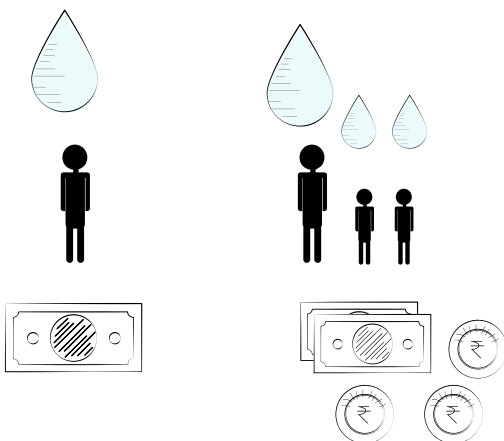
## *Uniform volumetric tariff*

Uniform tariff approaches depend on a metered system, where households pay a fixed rate for each unit that they use. Such systems will generally be cheaper to administer than a differentiated system. However, they do not take account of households' size or ability to pay, or whether a household has particular needs that will require more water, such as dialysis or other health needs. They will almost invariably lead to better-off households having access to more water or paying lower bills than poorer residents.

## *Differential pricing*

Differentiated tariffs, which intend to provide a lower tariff targeted at poorer households or communities, may be more complex to administer but may help to ensure affordability even for disadvantaged households. Increasing block tariffs is a common model for differential pricing in which differing quantities of water (or sewage) are charged at different rates.

The first "block" may be set at a "lifeline" tariff – a sufficient quantity for the average household – at a low rate, generally below the cost of providing the service.





# WATER SHUT-OFFS IN FOCUS

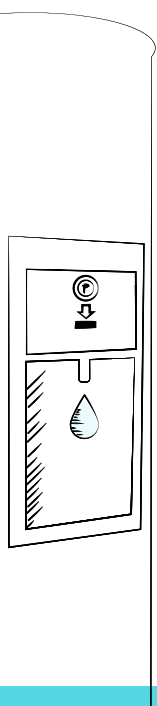
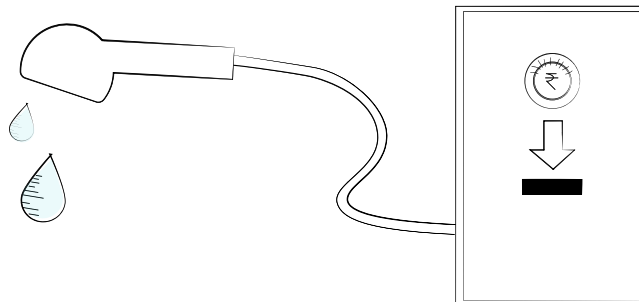
Disconnection of services due to an inability to pay for the service is a retrogressive measure and constitutes a violation of the human rights to water and sanitation. In some instances, disconnections have taken place on a large scale. For instance, the Detroit Water and Sewerage Department has been disconnecting water services with no consideration of whether people are able to pay or not

*Policies must prohibit disconnections due to inability to pay.*

Disconnections are only permissible if it can be shown that households are able to pay but are not paying.

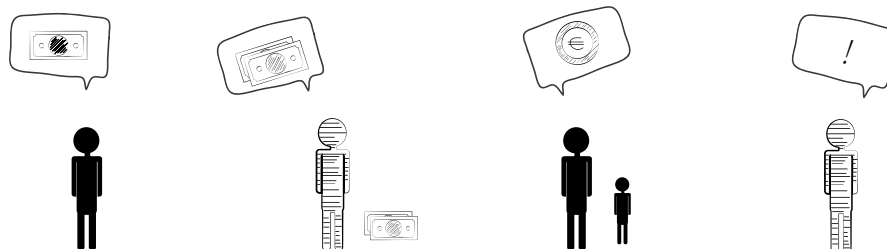
## *Pre-paid water meters*

Pre-paid water meters, showers and public toilets are suggested as an option for service providers to ensure that households and individuals pay for the water that they use, as they require payment in advance. This may lead to “silent disconnections” due to lack of ability to pay, and can be a violation of the human rights to water and sanitation.



# PARTICIPATION

In determining mechanisms for allocating public financing and setting tariffs, participation, access to information and an active role in decision-making are essential. These decisions translate into the prioritization of resource allocation. Most important from the perspective of human rights is that such participation includes the most marginalized and disadvantaged individuals and groups to ensure that measures are taken to actually reach the ones most in need of public financing



Some communities have used participatory wealth rankings as a way of assessing poverty to determine how to target measures within their communities. Determining relative poverty in a community allows for targeting on that basis. Such participatory processes can provide detailed insights on local poverty and often include access to water as an indicator in the analysis.

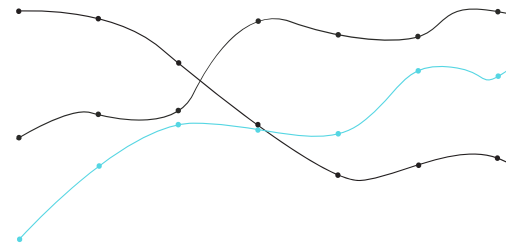
# REGULATION

Once a tariff system that meets affordability standards has been developed, the body responsible for regulating service providers should be able to ensure both that the tariff system is correctly applied, and that it is having the desired impact on affordability levels for all users.

Likewise, a regulatory body, in collaboration with the relevant government department, can ensure that public financing is adequately targeted. Complaints mechanisms, put into place by service providers or regulators, can support these processes.

## *regulating informal provision*

Formalization and regulation of informal service provision must pay due attention to the impact of this process on levels of access, affordability and quality of service provision. Where States seek to replace informal service provision with formal providers, they must ensure that people can actually afford these alternatives and do not experience retrogression in the realization of their human rights.



# MONITORING

## *affordability as proportion of income*

Monitoring affordability is not a straightforward process. Accurate and meaningful monitoring of affordability is extremely complex. If carried out on the basis of an affordability standard, the necessary parameters for calculating affordability – the expenses for accessing water and sanitation in comparison to overall household expenditure, and the real income of a household – are difficult to measure.

Given these difficulties, States often use an “average” or a “lowest” income level, and an assumed acceptable volume of water to set appropriate service charges. However, such generalizations hide whether individuals can actually afford services in their particular context, which may involve a large household, or individuals with specific health problems.

## *affordability as protection of human rights*

Other approaches to monitoring affordability take a different starting point. Rather than relying on an absolute affordability threshold, they look at the impact that the cost of water and sanitation services has on the enjoyment of other human rights.



# CONCLUSION

## *prioritising human rights*

Ensuring affordable service provision for all people requires a paradigm shift – starting from the perspective of human rights. Economic sustainability and affordability for all people are not impossible to reconcile, but human rights require rethinking current lines of argumentation and redesigning current instruments.

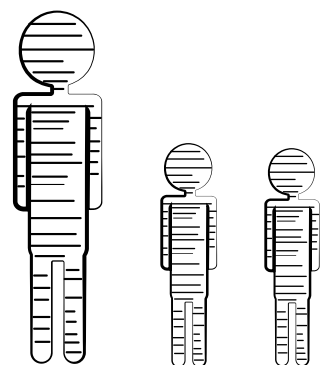
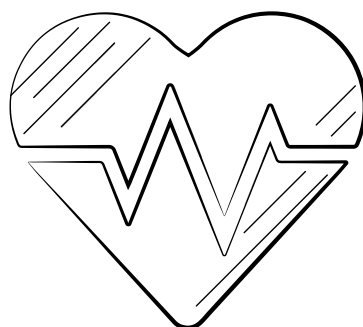
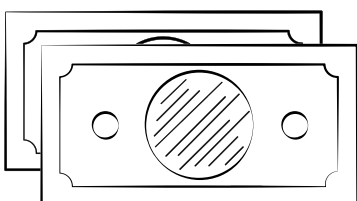
## *ensuring equal access*

The main challenge is to ensure that targeted measures and instruments do, in fact, reach the people who rely on them most. For instance, tariffs must be designed in such a way that the most disadvantaged of those connected to formal utilities receive the assistance they need.

It also requires ensuring that public finance and subsidies reach the most marginalized and disadvantaged individuals and communities, who are often not (yet) connected to a formal network, who may live in informal settlements without any formal title or in remote rural areas where self-supply is common, and who are often overlooked or deliberately ignored in current policymaking and planning.

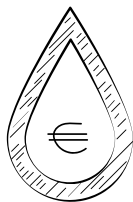
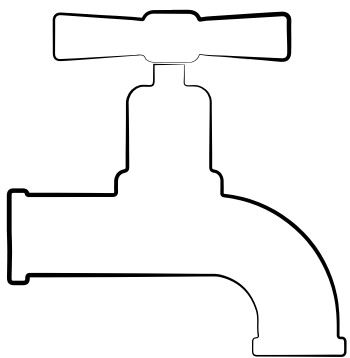
## *a wider definition of affordability*

Focusing solely on utility tariffs bears the risk of severely underestimating expenses and would paint an overly positive picture of affordability that only captures the better-off, while neglecting the very real challenges that the most disadvantaged people and communities face in accessing water and sanitation.



# RECOMMENDATIONS

*States should take the following measures:*

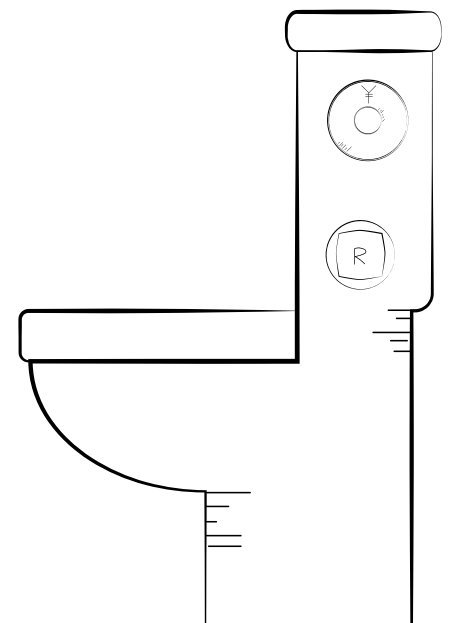


- (a) Assess what financing mechanisms and subsidies are in place, including hidden subsidies, and who benefits from them;
- (b) Ensure transparency about existing and planned financing mechanisms and subsidies;
- (c) Consider establishing national legislation requiring that service providers and subnational governments include affordability concerns in policies and in service provision;
- (d) Set affordability standards at the national and/or local level, based on a participatory process, involving in particular people living in poverty and other marginalized and disadvantaged individuals and groups, that consider all costs associated with water, sanitation and hygiene;
- (e) Consider affordability standards together with other standards, particularly for availability and quality, to ensure that people can afford to pay for the services based on human rights standards;

(f) Ensure participation in the process of decision-making on determining mechanisms for allocating public financing and setting tariffs;

(g) Use public financing to support access for people living in poverty and those who are marginalized or discriminated against and eliminate inequalities in access to water and sanitation services;

(h) Give careful thought particularly to ensuring the affordability of sanitation provision, where costs are frequently underestimated;



(i) Focus on ensuring affordability for the most disadvantaged, including communities in informal settlements and communities that rely on self-supply, and explore different mechanisms to achieve this;

(j) Consider the impact of mechanisms adopted to ensure affordability, whether universal systems are actually universal in scope and reach beyond networked supply, and whether targeted systems (whether based on income, geographic location, type of access or other factor) in fact reach the intended beneficiaries;

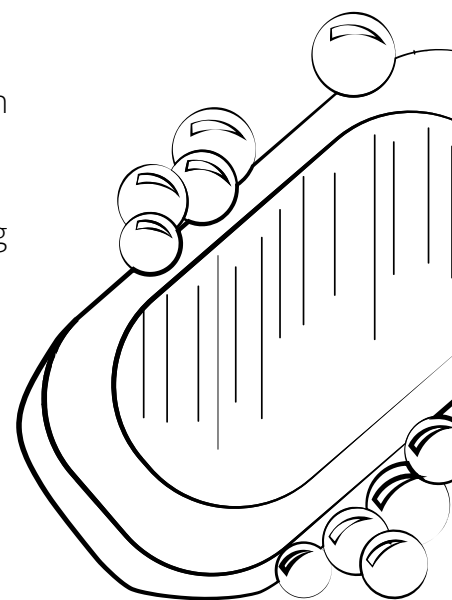
(k) Put into place strong regulatory frameworks and bodies for ensuring affordability of service provision that covers all types of services;

(l) Address corrupt practices that add to the cost of service provision;

(m) Prohibit disconnections that result from an inability to pay;

(n) Monitor affordability of water and sanitation service provision through focused studies that examine income levels in different settlements, considering all costs relating to access to water and sanitation, including hygiene and menstrual hygiene requirements;

(o) Where prepaid water meters are considered, ensure that households that face an inability to pay are not disconnected from water supply and that quantity, continuity and quality of water meet human rights standards.



### *In addition:*

The Special Rapporteur encourages the treaty bodies and other human rights monitoring mechanisms to pay increasing attention to the affordability of water and sanitation service provision in the particular contexts people live in.

The Special Rapporteur encourages States and international organizations to further explore options for global monitoring that allow for more comprehensive monitoring of affordable access to services.

