

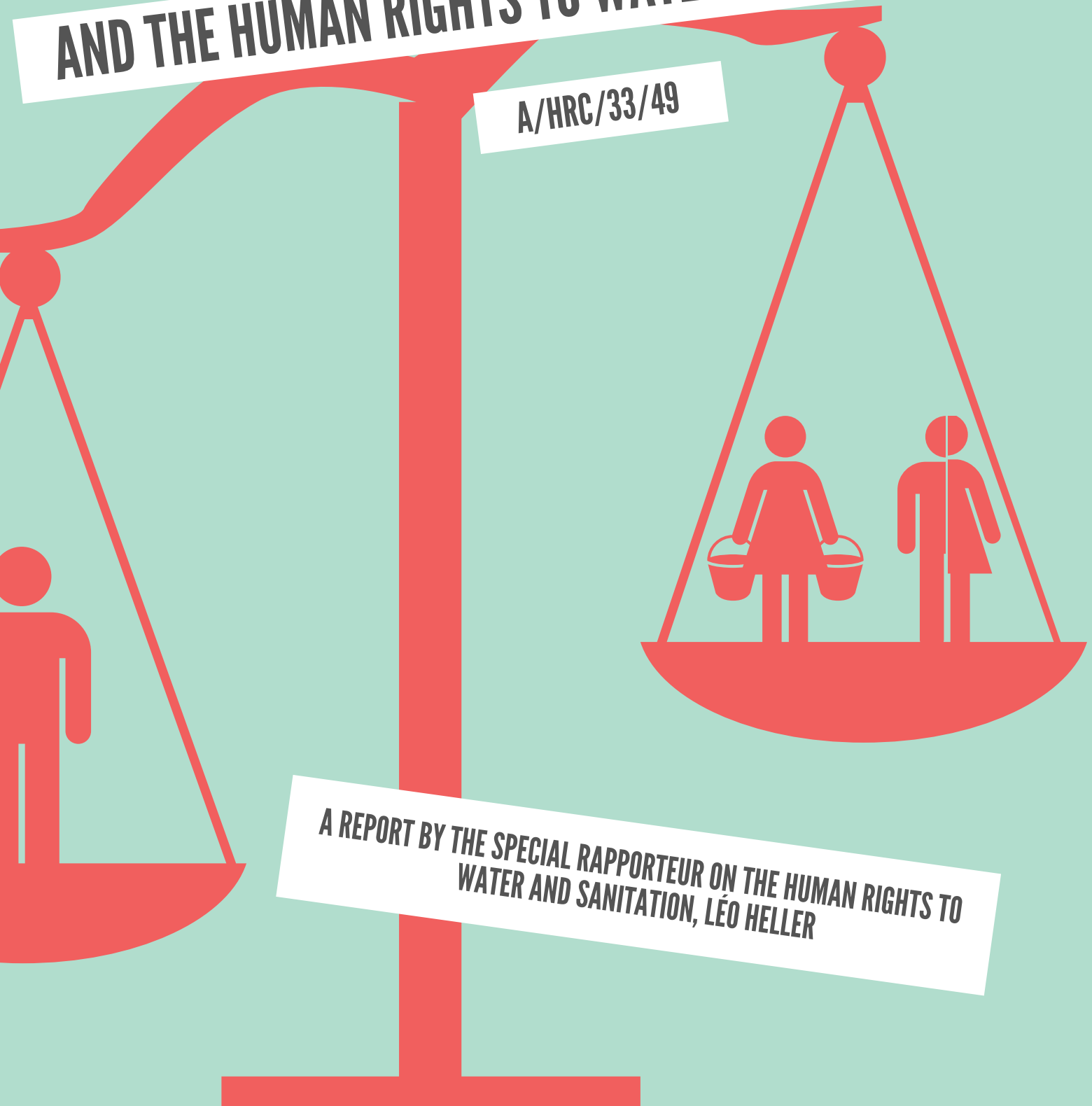


HUMAN RIGHTS TO  
WATER AND SANITATION

# GENDER EQUALITY

## AND THE HUMAN RIGHTS TO WATER AND SANITATION

A/HRC/33/49



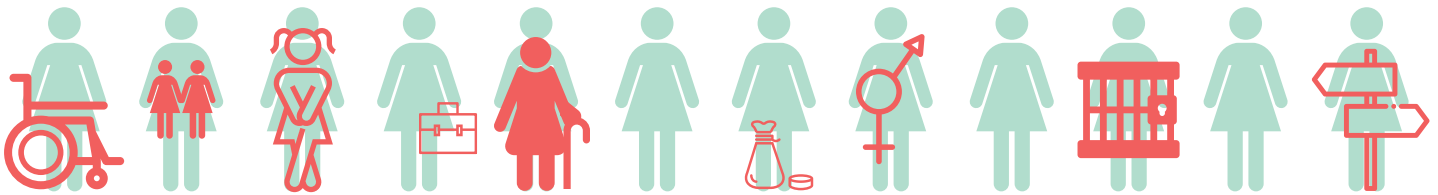
A REPORT BY THE SPECIAL RAPPOREUR ON THE HUMAN RIGHTS TO  
WATER AND SANITATION, LÉO HELLER

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# INTRODUCTION

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Inequalities based on gender exist in every country and in all aspects of social life, and are echoed in the vast divides between men and women in their ability to access, manage and benefit from water, sanitation and hygiene. A large and growing body of studies suggests that women and men often have differentiated access, use, experiences and knowledge of water, sanitation and hygiene.



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# THE APPROACH

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**Redressing inequality in water and sanitation provision by addressing discrimination**



**Redressing discrimination by addressing inequalities in water and sanitation provision**

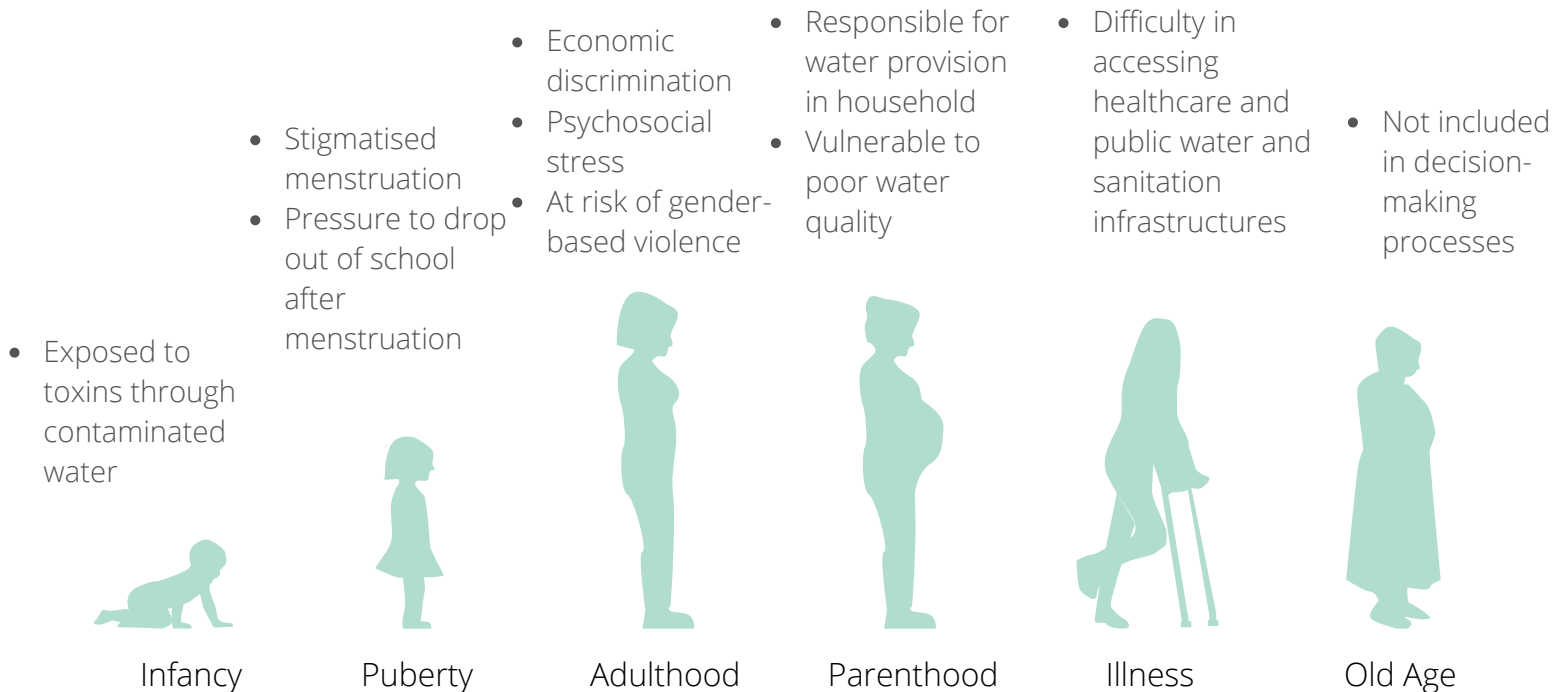
This approach requires challenging social norms, stereotypes and intra-household patterns, while also promoting gender-responsive interventions that prioritize the implementation of women's specific needs.

At the same time, tackling the material and structural determinants of gender inequalities in access to water, sanitation and hygiene could serve as an entry point to address gender inequality more broadly.



# GENDER INEQUALITY IN ACCESSING WATER AND SANITATION

Discrimination occurs throughout the lifecycle of a woman ...



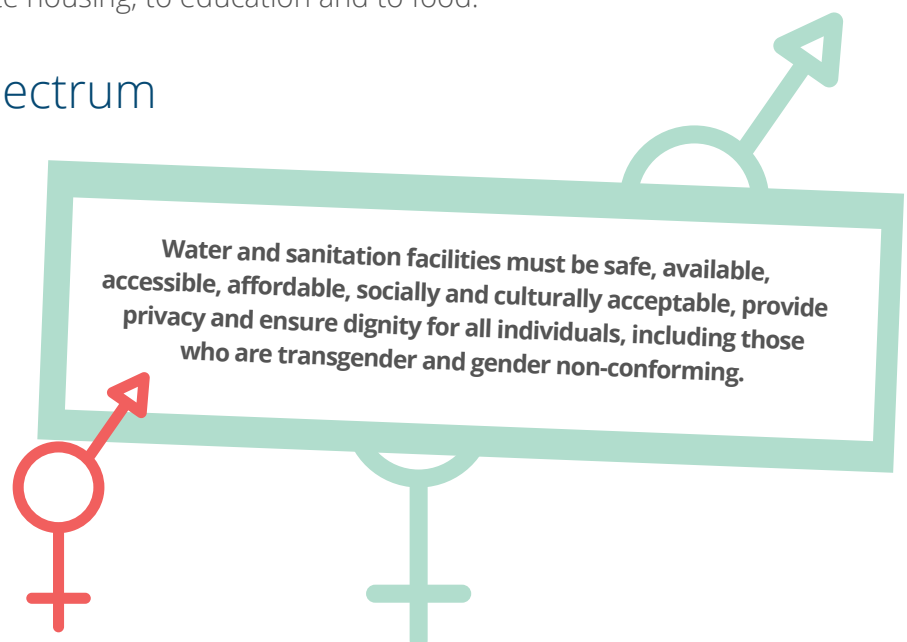
... across rights ...



Gender inequality in access to water and sanitation facilities affect a wide range of other human rights, including women and girls' rights to health, to adequate housing, to education and to food.

... and across the gender spectrum

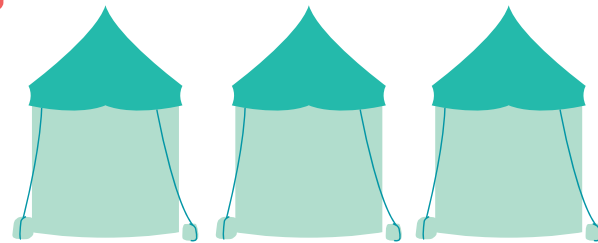
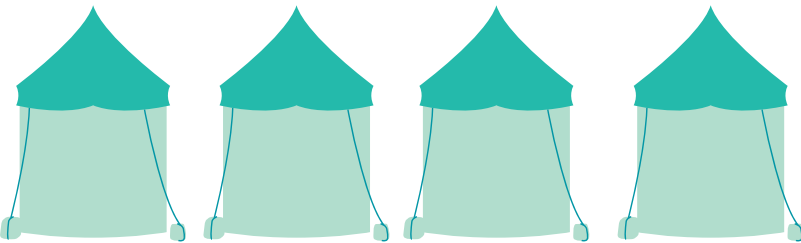
In particular, gender non-conforming people often feel that they need to sign away their freedom of expression since segregation by gender — including in public toilets, detention centres, relief camps and school — poses a risk of exclusion, humiliation and violence.



# Humanitarian contexts



In humanitarian situations, including in times of conflict or natural disaster, when water and sanitation sources are at a minimum, the specific needs of women and girls are often not taken into account. It is vital to better understand and share experiences about the kinds of responses that can be deployed across the diverse range of emergencies, including the most most adequate and effective adaptations and interventions.



# Gender-based violence

## Women/Girls

Women fear violence by men in public toilets and open defecation sites, and along the routes leading to both. Some women and girls looking for a place to defecate have reportedly been exposed to rude remarks, brick-throwing, stabbing and rape. Gender-based violence also occurs at places to collect water, bathe, and wash clothes.

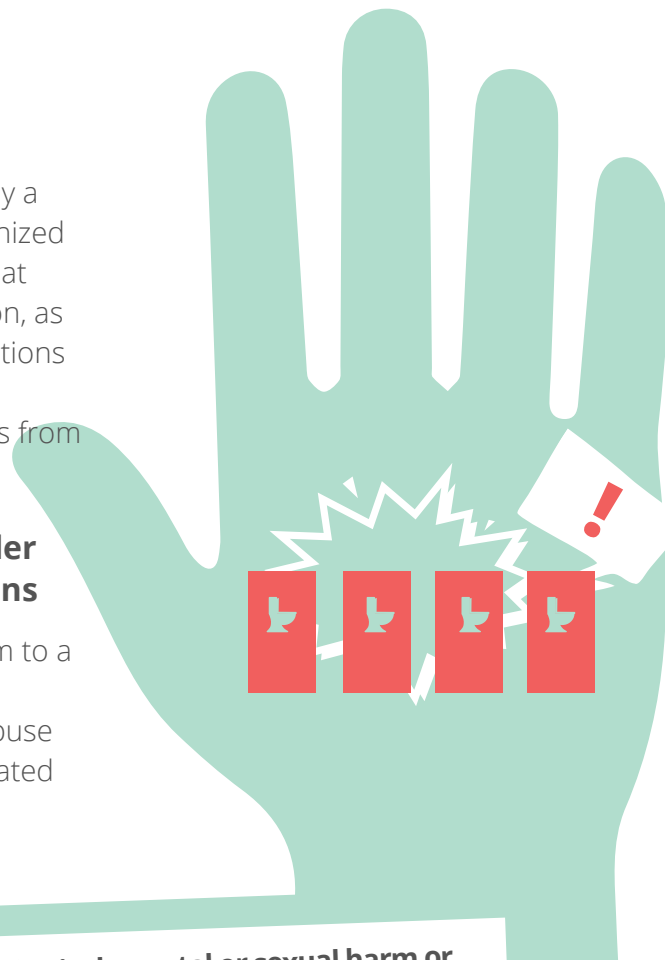
In addition to risking physical violence, women and girls may also experience sanitation-related psychosocial stress, including fear of sexual violence.

## Boys

Abuse of boys is reportedly a common and underrecognized phenomenon, and one that receives even less attention, as shame and cultural restrictions or taboos concerning homosexuality deters boys from reporting such abuse.

## Transgender and gender non-conforming persons

People who do not conform to a fixed idea of gender may experience violence and abuse when using gender-segregated sanitation facilities.



**Gender-based violence can be defined as acts that "inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty"**

**Women, girls, boys and gender non-conforming peoples suffer from gender-based violence when accessing toilets and other sanitation facilities.**

# LEGAL BARRIERS TO GENDER EQUALITY

Laws serve to give individuals a legal claim, may create social expectation and may spur public action. Legal guarantees on gender equality and non-discrimination can help to build political legitimacy to back the enforcement of women's and girl's rights to access to water, sanitation and hygiene. Laws related to gender-equality must explicitly address the different experiences of men and women, otherwise legislation that may seem gender-neutral will hide important differences between genders and will in practice benefit some persons more than others with regard to water and sanitation.

**Gender equality refers to the equal rights, responsibilities and opportunities between genders taking into consideration the different interests, needs and priorities and recognizing the diversity of different groups of women and men.**

**Gender equality means that everyone must be able to enjoy the rights to water and sanitation equally, and should not be discriminated against in accessing water, sanitation and hygiene.**

GENDER NEUTRALITY  $\neq$  GENDER EQUALITY

In order to attain substantive equality, therefore, it is necessary to address the specific gendered circumstances that act as barriers to the realization of those rights for women and girls in practice.

## Discrimination in law

It is important that policies and strategies explicitly mention the different experiences of men and women and marginalized groups, otherwise documents that may seem gender-neutral will hide important differences between genders and will in practice benefit some persons more than others with regard to water and sanitation.

Many legal constituencies, however, have laws in place that hinder the equal enjoyment of the rights to water and sanitation:

- In many countries, land ownership, which is a precondition for gaining access to water, is often denied to women by family laws that also make it difficult for women to inherit land.
- Some countries criminalize open defecation while at the same time closing down public sanitation facilities.
- Some States allow individuals to use toilets in a manner consistent with that person's chosen gender identity while other States oblige persons to use only those toilets that correspond with the biological sex listed on their birth certificate.



Restrictive gender recognition laws not only severely undermine transgender peoples' ability to enjoy their rights to basic services, it also prevents them from living safely, free from violence and discrimination.

# HUMAN RIGHTS OBLIGATIONS OF STATES



## 1. Assess

States must assess existing legislation, policies and strategies, and find out to what extent the enjoyment of the rights to water and sanitation between men and women are equally guaranteed.

States should identify and rectify all laws that have direct or indirect discriminatory consequences on the enjoyment of the human rights to water and sanitation.

## 2. Redress

On the basis of that review, remedies should be provided and gender-responsive strategies should be developed that guide policymaking and the corresponding allocation of budgets.

Temporary affirmative measures will in many cases be necessary.

## The role of policy

Policies and special measures need to be adopted to tackle gender inequalities in practice and strengthen women's voice and participation.

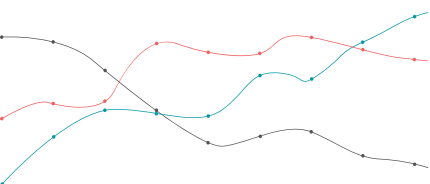
It is important that policies and strategies explicitly mention the different experiences of men and women and marginalized groups, otherwise documents that may seem gender-neutral will hide important differences between genders and will in practice benefit some persons more than others with regard to water and sanitation.

The legal framework should contain provisions on:

- non-discrimination and
- equality in access to water and sanitation.

Such laws should aim to eliminate both formal and substantive discrimination, and take into account both public and private actors.

# ROLE OF REGULATORY ACTORS AND SERVICE PROVIDERS



Formal independent regulators, as well as locally based participatory water and sanitation committees, should monitor whether the regulations are well interpreted, implemented and effective, taking into account the specific needs of women, girls and gender non-conforming peoples.

Service providers must ensure that facilities are designed with the participation of women and girls in order to adapt them to their biological and sociocultural needs. The specific needs of women and girls must be incorporated into the design, implementation, monitoring and evaluation of sanitation facilities.



# INTERSECTIONALITY AND MULTIPLE FORMS OF DISCRIMINATION

Although women - at every economic level, all over the world - may suffer disproportionate disadvantages and discrimination, they cannot be seen as a homogenous group.

## Social discrimination

The effects of gender discrimination are compounded when they intersect with other grounds for discrimination, such as:



profession



marital status



caste



age



sexual orientation



gender identity



## Inequality

Women who suffer from additional barriers to equality will be more likely to lack access to adequate water, sanitation and hygiene facilities, to face exclusion or to experience vulnerability and additional health risks as a consequence of the violation of their human rights to water and sanitation.



suffer from poverty



live with a disability



suffer from incontinence



live in remote areas



lack security of tenure



are imprisoned

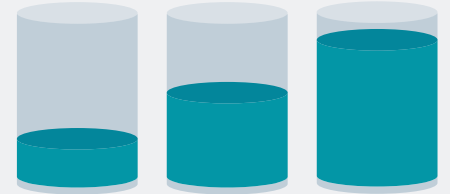


are homeless

# GENDER RESPONSIVE MEASURES: DISCRIMINATION IN WATER AND SANITATION

## Redressing socio-economic advantages

Women's disproportionate share of unpaid work makes them financially dependent on others and leaves them less time for education and paid work. This again reinforces gender-assigned roles and women's financial dependence on men, including in terms of their ability to pay for water, sanitation and hygiene services.



## Social norms and stereotyping

### Gender stereotyping

A gender stereotype is harmful when it limits women's and men's capacity to develop their personal abilities, pursue their careers and make choices about their lives. Compounded gender stereotypes can have a disproportionately negative impact, in particular on the enjoyment of the human rights to water and sanitation, on certain groups of women, such as women with disabilities, women from minority or indigenous groups, women from lower caste groups and women of lower economic status.

### Menstrual Hygiene

Practices and beliefs are different in every culture, but generally menstruation is considered to be something unclean or impure and contact between men and women during menstruation is viewed as something that should be avoided. Girls and women are sometimes not allowed to use the same toilets as men or are barred from certain locations.

In many cultures, girls are considered adults after their first menstruation and may drop out of school, marry and start having children. Poor menstruation management has far-reaching consequences for society as a whole and a lack of knowledge by both women and men reinforces the taboos on this topic.

Awareness-raising campaigns to inform and change the mindsets and attitudes of both men and women should be designed using all available means, including the media, at the community level and in schools, with the participation of civil society.

Girls all over the world grow up with the idea that menstruation is something they should hide and not speak about - an embarrassing event associated with shame. This powerful stigma and taboo surrounding menstruation translate into fear of leaking or staining clothes.





# GENDER RESPONSIVE MEASURES: WATER AND SANITATION PROVISION

## Quality, health and safety issues

States must take all measures necessary to remove the barriers that deter people from using sanitation facilities. A concerted approach is needed against violence based on gender identity and initiatives must aim to increase respect and acceptance throughout society.

### **Levels of access to water and sanitation services affect men and women unequally.**

Because of their domestic roles and responsibilities, women are in greatest physical contact with contaminated water and human waste. Standards on water, sanitation and hygiene quality must take into account the fact that women, especially when pregnant, have a lower tolerance for toxic substances.

Many women and girls risk their health using unhygienic sanitary methods, for example by using dirty rags or newspapers to collect menstrual fluids, as other methods are unaffordable, unavailable or unknown owing to stigma and taboos relating to menstruation. States must ensure affordable health care for all women and girls, including for menstruation issues and incontinence.

Women and girls who hold their urine for long periods of time have a higher risk of bladder and kidney infections. In addition, they tend to avoid consuming liquids to prevent having to use the toilet, as a result of which many become dehydrated.

## Sanitation and Hygiene

Soap and clean water for personal hygiene is of particular importance during menstruation. Women and girls must be able to use clean materials to absorb or collect menstrual fluid, and change them regularly and in privacy.

Water, sanitation and hygiene needs are critical to prevent high maternal and newborn mortality rates.

Women and girls with disabilities face unique challenges in accessing sanitation facilities. Their ability to properly manage their hygiene may be particularly compromised and, when facilities do not provide for the space and materials they need, they are especially prone to diseases.

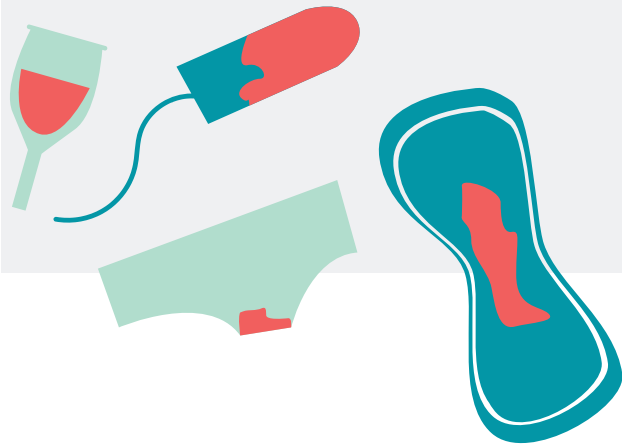


## Affordability

Affordability is of special concern to women and girls, who often have less access to financial resources than men. Women and girls need toilets for urination, defecation and menstrual hygiene management as well as for assisting younger children. Combined with women's lower access to financial resources, pay-per-use toilets with the same user free for men and women are in practice often more expensive for women. Besides, public urinals are often free for men but not for women.

Water cut-offs may excessively affect women as family caretakers, in particular in poor female-headed households.

Women and girls need to have materials to manage their menstruation, which can be a particular burden for those living in poverty. The human rights to water and sanitation include the right of all to affordable, safe and hygienic menstruation materials, which should be subsidized or provided free of charge when necessary.



## Availability and accessibility

### Household- and community-level access

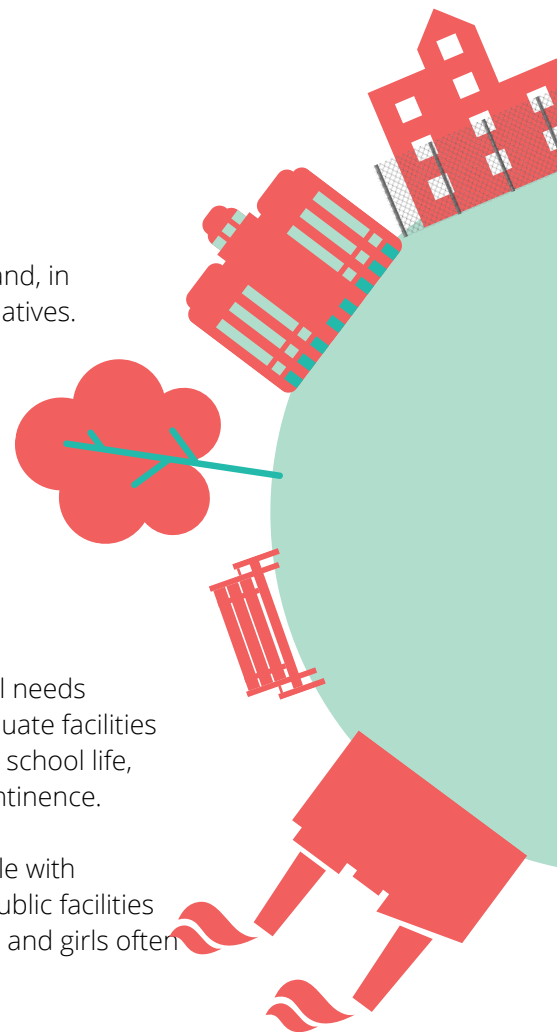
States must prioritise water and sanitation provision to households not yet served and, in particular, those households where women and girls have the least adequate alternatives.

Where it is not yet possible to have access to services on site, it is important to scale up the construction of safe and nearby community toilets. To reduce the risk of women and girls experiencing violence, building codes for community water and sanitation facilities should include gender considerations such as sex-segregated cubicles, closeness to the house and lighted pathways to and at facilities.

### Extra-household access

Human rights law requires that sanitation facilities be reliably accessible to satisfy all needs throughout the day and the night, and meet the needs of their users. A lack of adequate facilities in public spaces often leads women and girls to avoid the public and both work and school life, particularly during menstruation, when they live with disabilities or suffer from incontinence.

Human rights law requires that a sufficient number of sanitation facilities be available with associated services to ensure that waiting times are not unreasonably long. Many public facilities have an identical number of stalls for men and women, although in practice women and girls often have to wait in long lines to use the toilet, while men have much quicker access.



**Standards in regulations and building codes should include special needs for women and girls, and must be developed for schools, hospitals, the workplace, market places, places of detention and public transport hubs and public institutions, among other places.**



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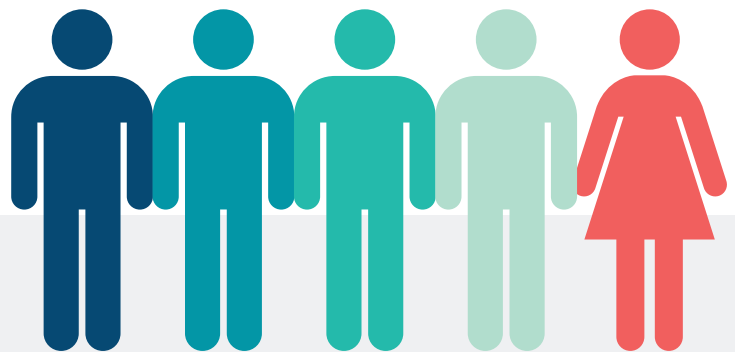
# GENDER RESPONSIVE MEASURES: DECISION MAKING

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## Participation and empowerment

Participation encompasses women's power to influence decisions, to voice their needs, to make individual choices and to control their own lives. The lack of water, sanitation and hygiene facilities that meet women's and girl's needs can be largely attributed to the absence of women's participation in decision-making and planning.

Marginalised women and girls (including those with disabilities, those who are elderly uneducated or impoverished, and sex workers) face additional barriers to participation. It is therefore important to consider who participates, since participation is often extended only to certain women, in other words the wealthiest, more educated and those who are relatively privileged owing to their caste or religion.



## Accountability

### **Monitoring compliance and access to justice**

States must monitor the extent to which they and third parties comply with the legal content of the human rights to water and sanitation and of human rights principles. States must monitor decision-making processes and policy implementation, including on national and local budgets, to track whether they serve to close existing gender-based inequalities.

Persons must be made aware of the human rights to water and sanitation and the enforceability of those rights. Women must be able to hold the State to account regarding its obligations to provide adequate sanitation facilities in, for example, public spaces like market places and transport hubs. Impunity for perpetrators of gender-based violence must be eliminated and remedies must be provided.

### **Monitoring progress on the equal enjoyment of the human rights to water and sanitation**

Human rights-based monitoring can be built on a framework of structural, process and outcome indicators that serve to monitor not only the commitments made by a State but also the State's ongoing efforts and whether progress is being made to achieve targets on gender equality.

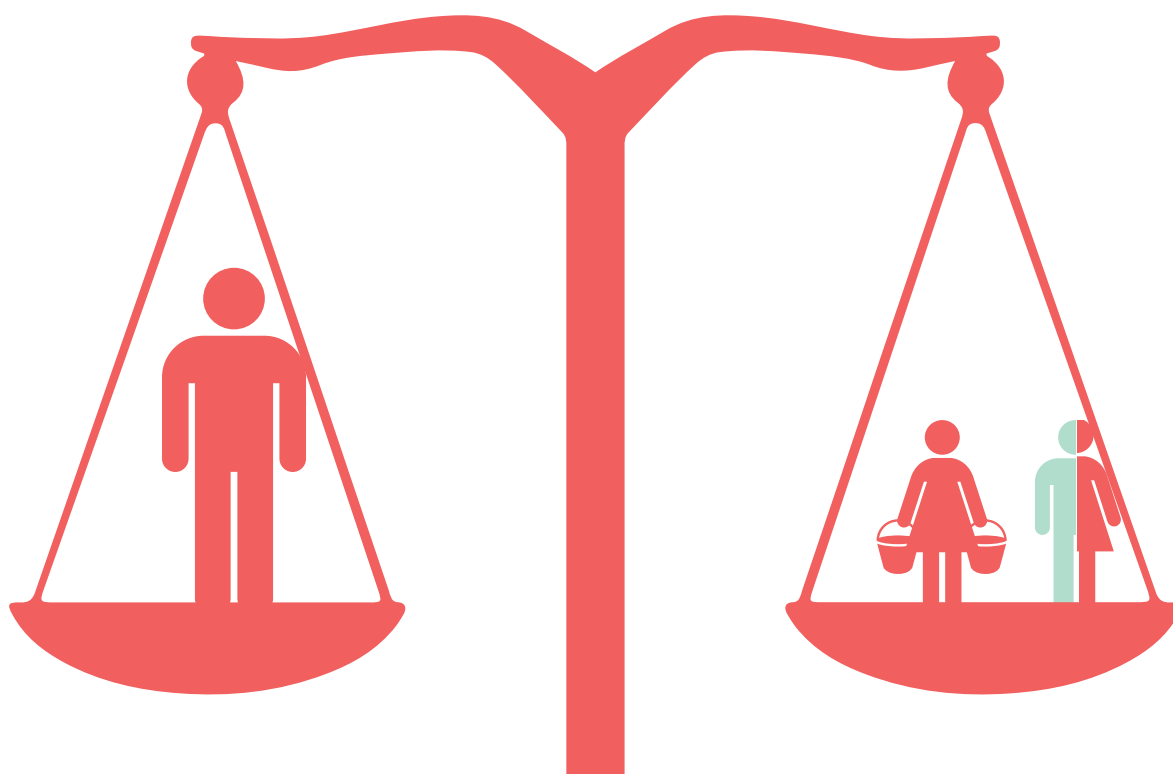
Context-specific studies and monitoring that capture the intersection of gender inequalities in the enjoyment of other human rights are key to understanding and developing improved policy responses.

# CONCLUSIONS

Safe, adequate and affordable access to water, sanitation and hygiene, as well as the promotion of women's empowerment, can be an entry point to ensure that women and girls enjoy their right to have and make choices, their right to have access to opportunities and resources, and their right to control their own lives, both inside and outside the home.

**Gender equality in respect of the human rights to water and sanitation will not only empower women individually but will also help women overcome poverty and empower their children, families and communities.**

Likewise, structural gender inequalities have an inevitable impact on the enjoyment of the rights to water and sanitation. Any approach to overcoming gender inequalities in respect of the rights to water and sanitation must therefore address women's strategic needs, including the eradication of harmful gender stereotypes, alongside interventions that focus on the implementation of women's material needs, such as adequate menstrual hygiene facilities. Although such a transformative approach that challenges social norms, stereotypes and intra-household patterns may take time, it is required in order to ultimately achieve gender equality in the enjoyment of the rights to water and sanitation.



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# RECOMMENDATIONS:

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## Policy and Law

- (a)** Identify, repeal and reform all laws that have both direct and indirect discriminatory consequences with regard to the equal enjoyment of the human rights to water and sanitation, as well as with regard to gender-based violence;
- (b)** Go beyond enacting formal provisions and implement targeted policies and budgets, among other measures, in order to tackle structural gender inequalities for the enjoyment of the rights to water and sanitation;

## Eradicating discrimination

- (c)** Make a legitimate effort to prevent and combat the root causes of gender inequalities, including the impacts of social norms, stereotypes, roles and taboos with regard to both women and men, through public campaigns, education and the media, among other measures;
- (d)** Create an enabling environment for women and girls to safely use water and sanitation facilities. Discrimination and violence based on gender identity must be prevented, investigated and remedied, and those responsible must be prosecuted;
- (e)** Promote gender equality, through intersectional policies, considering that gender-based inequalities related to water and sanitation are exacerbated when they are coupled with other grounds of discrimination and disadvantages;

## Gender-sensitive approaches

- (f)** Increase collaboration between entities operating in the water, sanitation and hygiene sector and those operating in other sectors, including the health sector, to address gender inequalities and culturally taboo topics more effectively and in a comprehensive manner;
- (g)** Apply a gender analysis and increase women's participation in the formulation of government budgets to water, sanitation and hygiene;
- (h)** Ensure that regulations require that the specific needs of women and girls are incorporated into the design, implementation, monitoring and evaluation of water and sanitation facilities, taking into consideration the special needs of women and girls made more vulnerable by disability and age. Regulators should monitor whether such regulations are well interpreted, implemented and effective;

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# RECOMMENDATIONS:

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## Service provision

(i) Ensure the gender-responsive water, sanitation and hygiene facilities are available in schools, hospitals, the workplace, market places, places of detention and public spaces like public transport hubs and public institutions, among other places. Laws and regulations must be developed, promoted and enforced and must serve to hold Governments and non-State actors to account;

(j) Develop water, sanitation and hygiene approaches, programmes and policies that proactively and deliberately enable the meaningful participation of women at all stages of planning, decision-making, implementation, monitoring and evaluation. States and development partners must identify, acknowledge and remove barriers to participation in decision-making in respect of water, sanitation and hygiene initiatives and ensure that women are aware of their ability to participate;

## Monitoring

(k) Develop a gender indicator system to improve the collection of data disaggregated by sex and other relevant factors, which are necessary to assess the impact and effectiveness of policies aimed at mainstreaming gender equality and enhancing women's enjoyment of their human rights to water and sanitation;

(l) Monitor intra-household inequalities and the way in which inequalities based on gender become manifest in extra-household settings, including in facilities in public institutions;

(m) Ensure that comprehensive data is collected on access to water, sanitation and hygiene management in respect of women and girls belonging to marginalized groups and living in marginalized areas, and support civil society in collecting data and in analysing, interpreting and monitoring results;

(n) Complement quantitative data on water, sanitation and hygiene with qualitative methods, to improve understanding and interpretation of gender-related issues and to inform and validate survey methods and techniques.

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