

Monitoring and Evaluating the Progressive Realisation of the Right to Water and Sanitation in South Africa

PEOPLES' GUIDE

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Matshidiso Motsoeneng



The Socio-Economic Rights Monitoring Tool





People's Guide to the Right to Water and Sanitation

This People's Guide is based on a larger research project available at www.spii.org.za entitled: Monitoring and Evaluating the Progressive Realisation of the Right to Water and Sanitation in South Africa.

The State of Socio-Economic Rights in South Africa

Since the dawn of democracy, the South African political landscape has been littered with promises of a better life. Yet recent years have seen increasing service delivery protests by communities all over the country, escalating youth unemployment and major industrial action. Ensuring that the human rights of the majority of the population are fulfilled, as required by the Constitution, remains a pressing challenge. Our Constitution, with its explicit inclusion of socio-economic rights such as housing, food, education, health care, water and social security, provides a foundation to guide the state and citizens alike towards a more open and democratic society based on equality and social justice.

Water and sanitation backlogs inherited from apartheid and growing informal settlements combine to ensure that many people continue to lack adequate, hygienic sanitation and safe drinking water. In this context, monitoring and evaluating government's promises and programmes is critical. Citizens, oversight bodies (such as Parliament and the South African Human Rights Commission) and policy-makers alike need to be aware of their rights and duties under the Constitution, and the extent to which government policies, resource allocations and the impacts meet Constitutional muster.

SPII's Socio-Economic Rights Monitoring Tool provides a means for this to happen. The Tool seeks to provide critical information on the progressive realisation of socio-economic rights, which

a wide range of people can engage with. The tool employs a 3-step methodology which combines policy (step 1) and budget (step 2) analysis and the development of quantitative indicators for the each of the socio-economic rights. This methodology is summarised in the diagram below;

Figure 1: The Socio-Economic Rights Monitoring Tool: 3-step methodology



Definition of concepts

Safe water: Safe drinking water means water that is safe for human consumption. Water for personal and domestic uses must be free from substances which are a threat to individual health; be culturally acceptable; and of an adequate quality. The Water Services Act of 1997 provides that the minimum essential level of access to water in South Africa is 25 litres per person per day from a water source that is within 200 metres of a household.

“The human right to water is indispensable for leading a life of dignity”

Basic Sanitation: For every household, there must be either a water-based flush toilet, a ventilated improved pit latrine (VIP) connected to a septic tank or other alternatives that meet minimum requirements in terms of cost, health benefits and environmental impact. Ensuring sanitation also requires education on good practices of hygiene behaviour, such as disposal of diapers and feminine hygiene products and washing hands properly.

“Improved sanitation means flush toilets connected to a septic tank or ventilated pit latrine located within 200 metres of the household”

The right to water and sanitation

The right to water is recognised in Section 27(1)(b) of the Constitution. Access to adequate sanitation is an essential part of this right, and is also linked to the rights to dignity (Section 10), privacy (Section 14) and in particular, housing (Section 26).

In the famous case *Grootboom*, the Constitutional Court confirmed that adequate housing consisted of more than just bricks and mortar, but includes:

“available land, appropriate services such as the provision of water and the removal of sewage and the financing of all of these, including the building of the house itself. For a person to have access to adequate housing all of these conditions need to be met: there must be land,

there must be services, and there must be a dwelling. Access to land for the purpose of housing is therefore included in the right of access to adequate housing in section 26.”¹

The government is obligated by the Constitution to progressively realise socio-economic rights such as water and sanitation for everyone in South Africa. Progressive realisation means that the provision of socio-economic rights such as water and sanitation must take place as quickly as possible, using the maximum resources available to the state.

Constitution of the Republic of South Africa, Section 27(1)(b) and

1) Everyone has the right to have access to –

(b) sufficient food and water.

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.



¹ Government of Republic of South Africa and Others v Grootboom and Others 2001 (11) BCLR 1169 (CC), para 35

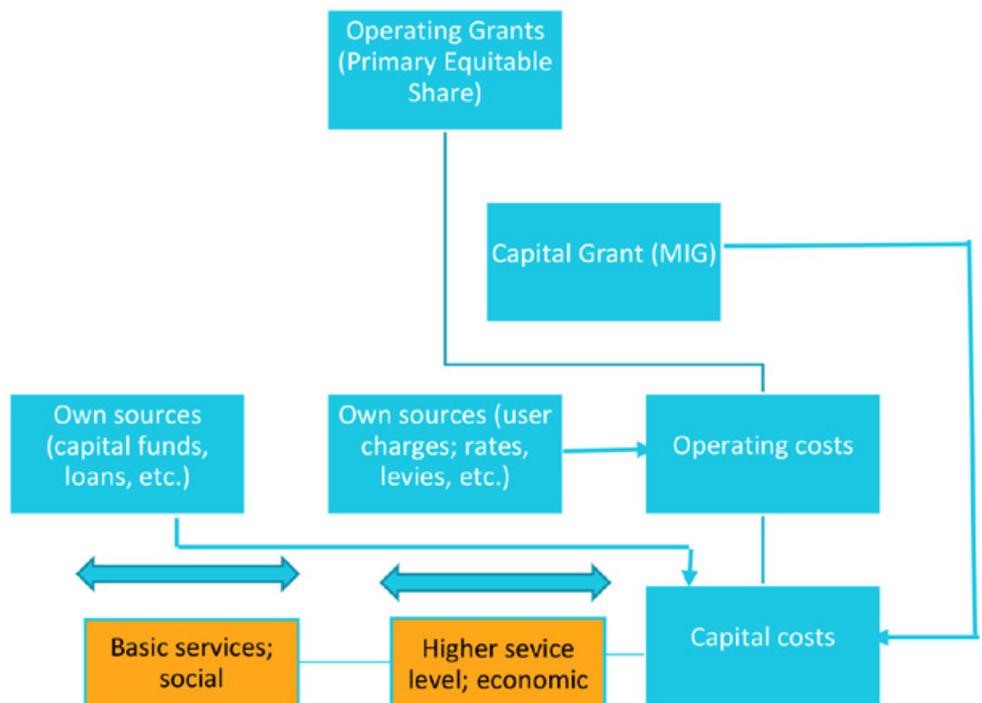
Important Legislation and Policy for Water and Sanitation

Local municipalities are mainly responsible for the delivery of water and sanitation services.



Allocation of Resources: What is being spent?

Municipal Spending Framework



Source: Department of Water Affairs

South Africa has mobilized extensive resources, mainly national resources, to provide for basic water and sanitation. The budget allocations for water and sanitation have been increasing in real terms in all the years of analysis, while increases are also expected in the next three-year medium-term financial framework. However, many municipalities have displayed an inability to spend the funds allocated to them, and many are also struggling to raise sufficient revenues from their own local tax base to delivery basic services sustainably.

Spending Patterns of the Department of Water and Sanitation (DWS)

Note: For more information on these spending patterns consult the full paper at www.spii.org.za

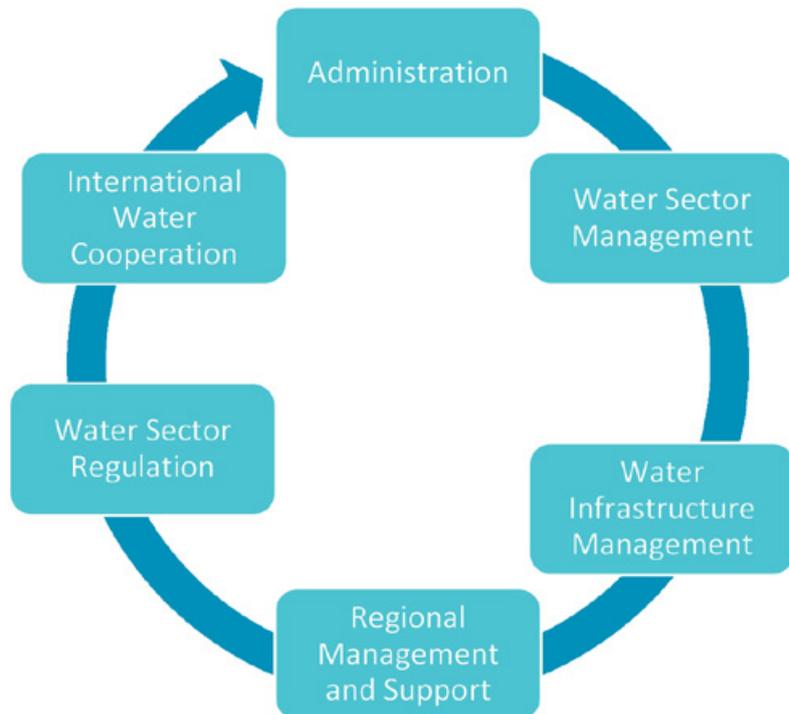


Figure 1: total budget allocated to DWS (real appropriation) 2009/10 – 2017/18



- A Bucket Eradication Grant was introduced in 2013/14 as a sub programme of the Human Settlements Development Grant (HSDG), which is aimed at upgrading informal settlements in metropolitan municipalities.
- Free Basic Services Policy of 2000



The Municipal Services Act 32 of 2000 provides that “municipalities must develop their own indigent policies in order to target Free Basic Services to the poor”. These include water and sanitation, as well as other basic services such as electricity. Water sources must be situated within 200 metres of a household and be provided free of charge to indigent households.² This is regulated under the Free Basic Services Policy of 2000, with households registered on the Municipal Indigent Register qualifying for this provision. The administration of the Indigent Register is a function of municipalities to make sure poor people that should benefit from this policy are targeted. Our research found that many municipalities are struggling with the administration of the Indigent Register, making it difficult to capture exactly the number of people who should be receiving free basic services.

Indicators: measuring the enjoyment of the right

Access

Access indicators look at both physical access and economic access to the right. This includes indicators looking at the general water supply to households; general physical availability of sanitation facilities; as well as household proximity to water and sanitation facilities and sources. Another key aspect of access is the issue of economic affordability.

People’s access to water and sanitation should not be hindered by economic factors such as cost.

Adequacy

The right to water and sanitation entails looking at the extent to which the water and sanitation that is accessed by people is adequate. This includes indicators on availability, which includes the level of distribution to households and the extent to which there is a reliable, continued supply of water and sanitation.

Quality

Quality indicators measure the level of standard or type of water and sanitation service provided to households. They also highlight the impact of the type of service given to households on people’s quality of life. Quality indicators consider the acceptability of services by looking at household perceptions on the water they consume and the level of satisfaction they have with the sanitation service they receive.

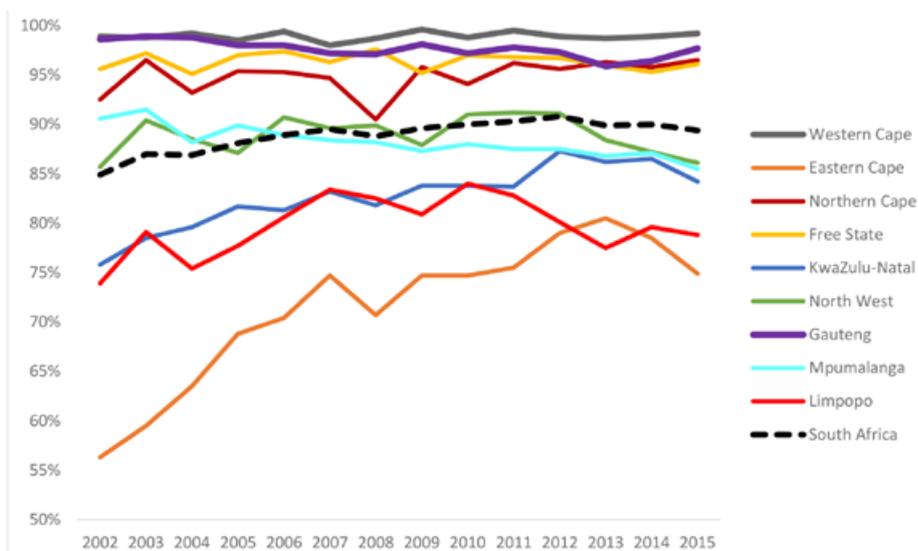


Examples of indicators

Indicator 1a: Percentage of households with access to RDP standard piped water

Data Source: General Household Survey (StatsSA) 2002-2015

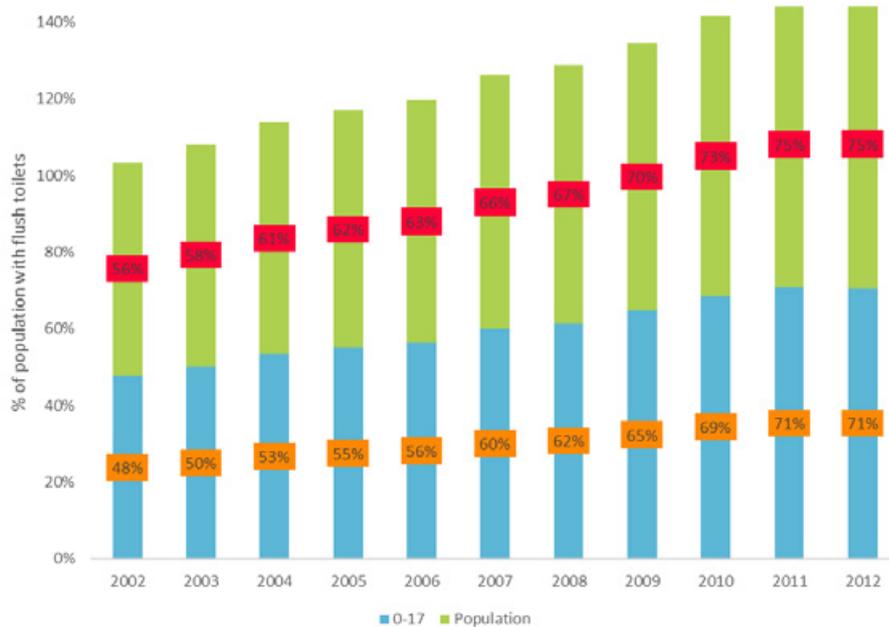
Description: This indicator displays the proportion of households in each province that have access to piped water as per the prescribed RDP standard. According to the GHS, RDP standard or higher refers to piped water in dwelling or in yard. Water from a neighbour's tap or public/communal tap is also included provided that the distance to the water source does not exceed 200 meters.



Indicator 16: Percentage of children (0-17 years) with access to flush toilets with on or off site disposal.

Data Source: Social Profile of Vulnerable Groups (StatsSA), 2002-2012

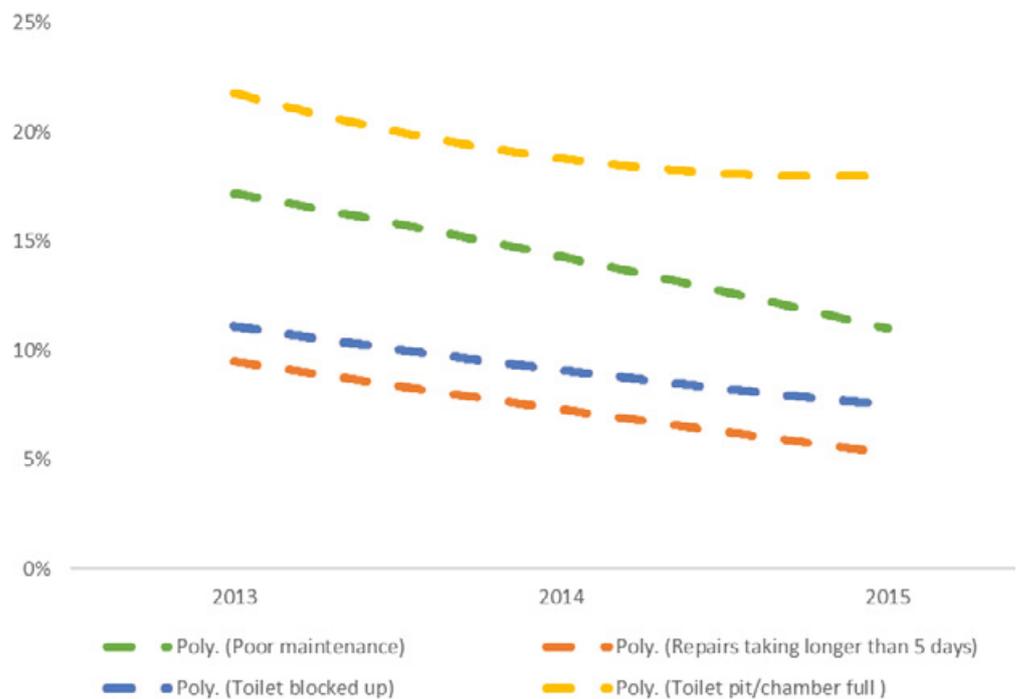
Description: This indicator shows the percentages of children (0-17) who have access to flush toilets with on or off site disposal in dwellings they live in. This percentage of children is then compared against the general population.



Indicator 12: Percentage of households who reported poor maintenance of their shared sanitation facilities, 2013-2015

Data Source: General Household Survey, 2013-2015

Description: This indicator provides insights into how well shared facilities are maintained by the government.



Key Findings of the Research

- A number of households still live in conditions where the natural process of relieving oneself is a daily struggle. Many women and children remain particularly vulnerable to assault and abuse at shared sanitation facilities.
- Government needs to establish more comprehensive monitoring mechanisms which include disaggregated data on the fulfilment of the right to water and sanitation in South Africa.
- Poor maintenance affects the overall state of sanitation facilities in terms of cleanliness and the removal of waste from sanitation facilities that are not water based. It often takes far too long for municipalities to repair the facilities when they are broken.

A full breakdown of the findings and recommendations from this research is available in the full paper on our website: www.spii.org.za

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