Submission on the draft National Sanitation Policy
Version 3.0 (October 2011)

9 December 2011

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About SERI

The Socio-Economic Rights Institute of South Africa (SERI) is a non-profit organisation based in Johannesburg. SERI provides dedicated and expert socio-economic rights assistance to individuals, communities and social movements in South Africa.

SERI conducts applied research, engages with government, advocates for policy and legal reform, facilitates civil society coordination and mobilisation, and litigates in the public interest. Our thematic areas are:

- housing & evictions;
- basic services (water, sanitation, electricity); and
- political space.

In July 2011, SERI published a resource guide entitled Basic Sanitation in South Africa: A Guide to Legislation, Policy and Practice.\(^1\) This guide aims to provide a simplified yet comprehensive overview of law, policy and practice relating to basic sanitation in South Africa. The guide focuses on access to household sanitation by poor communities. It outlines the legislative and policy framework, relevant case law (Nokotyana and Beja cases specifically), government roles and responsibilities, and highlights key challenges faced by various departments and communities.

SERI works predominantly with communities and CBOS in informal settlements and inner city buildings in Johannesburg, Ekurhuleni and Durban. Access to sanitation is one of the biggest challenges facing those living in these inadequate housing conditions.

Submission

SERI has a number of general comments on the draft National Sanitation Policy (“the Policy”):

- This Policy is not explicitly premised within a rights framework, and this could be a useful to frame the document e.g. interdependency, indivisibility and interrelatedness of rights, fundamental link of access to sanitation to access to adequate housing etc.

- The definitions in the Glossary and Definition section need to be aligned to relevant legislation and policy, and clearly referenced to these within the document. The Policy should directly speak to other legislation and policy, so as to locate it within the Constitution and legislative/policy framework of South Africa.

- The Policy as it stands needs to be much shorter. It is far too long at 80 pages, and should much more focused, concise and user-friendly to local government officials, its primary target. It should be no more than 30 pages ideally. It should also not be too generic, and should be targeted at the specific needs of different types of municipalities, at least in terms of recognising the problems they face in rolling out improved sanitation.

• It is strongly urged that the findings and recommendations coming out from the work of the Ministerial Sanitation Task Team be integrated into the new Policy. These parallel processes should be very strongly aligned, and the policy revision process should be seen not as producing a final document, but as formulating government’s clear policy position on sanitation.

• The policy development process should be viewed as a vital opportunity to strengthen the institutional capacity of the National Sanitation Programme, and its alignment with DHS and DWA, as well as SALGA and local government more generally. The Policy, ultimately, must guide the work of the National Sanitation Programme going forward, and should not be merely descriptive.

• The policy intent is not clear or focused. This Policy should be a vision, a normative guideline for relevant stakeholders, particularly local government. It should not simply be a revision of the 1994 White Paper and its policy principles.

• The policy should set clear norms and standards required of local government in the provision of sanitation. These appear to be buried somewhere under Technical Considerations in the current draft Policy. These should be the driver of the policy, and should be aligned with revisions of the Water Services Act and Regulations made pursuant.

• There should be a particular focus on access to adequate sanitation in informal settlements located in urban and peri-urban, as this is where the most severe need occurs. For example, Umgeni Municipality will provide 1 VIP toilet per 5 households,2 and Ekurhuleni will only provide 1 chemical toilet per 10 households.3 Is this because of geography, tenure security, likelihood of permanent housing, funding availability? These kind of issues need to be unpacked, but within the context of a clear policy and clear norms and standards on sanitation.

• People require improved sanitation because they need proper housing, and there is unfortunately a huge and growing backlog in housing. The policy must use this as a starting point, along with the recognition that a minimum basic level of all basic services - shelter, sanitation, water and electricity – is required by people regardless of whether they have access to a subsidised house or flat, or are able to build their own house. Basic sanitation is part of core group of interim services that municipalities need to provide to people. The reasons why this is not happening should be a focus of the Policy, and should inform the policy provisions and standards.

• Much of the most important and relevant information is buried deep within the Policy. This information and policy insights need to be brought to the fore. Technical considerations, roles and responsibilities sections can perhaps be moved to annexure section. Health and hygiene education can also be moved, or perhaps would be better suited as an additional guideline. It already exists as a strategy, and can even

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be simply referenced within the Policy. A lot of information needs to be removed from the document as it stands.

- Policies are usually precursors to legislation, regulations or a sustained programme of action. There is no sense of where this Policy is leading, and it appears as a predominantly descriptive guideline. This is worrying.

- There needs to be much more direction and vision with regards to regulation of norms and standards set by DHS and DWA. The Policy as it stands does not adequately outline the different responsibilities of these two national departments. How does regulation happen in practice? What mechanisms should be put in place to ensure regulation at national and local level? It is hoped that some suggestions will arise from the Ministerial Sanitation Task Team’s work, however this is an area that requires a lot more focus, as it is an extremely critical area that has been neglected in the past.

- Under Policy principles, the first principle is problematic. A demand-driven, health and hygiene education dominated approach is not appropriate for this Policy. The Strategic Framework moves from a demand-driven approach to a supply-driven municipal provision programme. This is an important step that needs to be acknowledged and pushed in the new Policy. While health and hygiene education are important, the real problem lies with the fact that people living in informal settlements and other precarious and insecure living arrangements are denied access to basic sanitation and other services, which severely affect their already compromised quality of life.

- The policy principles need to be totally revamped or, at the very least, comprehensively re-ordered in terms of some kind of ‘hierarchy’ e.g. most important is that basic sanitation is a human right; provision of basic sanitation is a local government responsibility, community participation and engagement in sanitation provision is critical to success, proper integrated development planning at the local level is the important, appropriate resource allocation for basic services etc.

- There needs to be more principled, policy fulfilment-orientated approach towards funding for sanitation in the Policy. It needs to address the various types of funding available to local government, and stress prioritisation of the needs of the poor e.g. by using cross-subsidisation etc.

- The policy should perhaps focus on household sanitation, and leave out institutional and industrial waste water. These are different issues, and could perhaps be better addressed elsewhere.