

Uganda Country Mapping

The Status of Implementation and Monitoring of the Human Right to Water and Sanitation

Rose Osinde Alabaster and Lenka Kručková

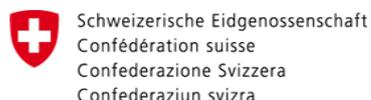




Uganda - Ministry of Water and Environment

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The project was implemented with the combined effort of WaterLex International Secretariat and the project research team from WaterAid, the National Association for Women's Action in Development (NAWAD) and the local consultant engaged by SIWI.

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Sylvia Bohibwa, Joyce Magala and Franz Hollhuber

Executive Summary

Access to safe water and sanitation is a human right, as recognized in 2010 by the United Nations General Assembly (UNGA). The Human Right to Water and Sanitation (HRWS) is inextricably linked with other human rights and therefore lack of access equally has a profound negative impact on many of the related human rights.

This one-year research was undertaken to establish the status of implementation and monitoring of the human right to water and sanitation in Uganda, in order to provide support for increased alignment of the legal framework, key sector policy frameworks, implementation and monitoring strategies, with the existing human rights commitments of the government.

This project was designed as a baseline study, using the WaterLex Country Mapping tool, which ultimately aims to identify gaps at the levels of: legal and policy framework through a *structural analysis*; planning and implementation of the public policies through a *process analysis*; and monitoring of public policies through an *outcome analysis*. As a result, a comprehensive multi-stakeholder analysis was undertaken through extensive desk reviews of the legal and policy frameworks; stakeholder mapping undertaken at the levels of law and policy-making, planning, implementation and monitoring; and evidence collected through field studies in the five sample districts - Kisoro, Nakapiripirit, Lira, Kamuli, and Amuru. These districts were selected through both random and purposeful sampling, using an agreed protocol defined and approved by the Project Steering Committee that was established and chaired by the Ministry of Water and Environment (MWE). Research findings were shared in a national stakeholder workshop during which an action plan for targeting the current unserved and underserved population of Uganda was defined to support the government's efforts for securing universal access to safe water and sanitation.

In an extensive analytical and descriptive effort, this report of the Country Mapping is intended to contribute to the organizational setting and the current practices of MWE and the broader water supply, sanitation and hygiene (WASH) sector and to engage a national dialogue on what should be the measures and indicators to adopt and apply at each of the three levels in order to ensure the integration of the HRWS.

The contextual background on Uganda is presented in Chapter One, together with an elaboration of the broad national planning and development to establish the current enabling environment that supports the sectors (including water and environment) in Uganda. This explores, for instance, how the role of parliament in ensuring legislation remains relevant to both development and socio-economic service provision and delivery; and the situation with respect to national planning and targeting of policies, strategies and programmes.

Subsequently, a structural analysis is provided and involves the review of water and sanitation related laws, policies and operational guidelines, which promote and support the realization and monitoring of HRWS. This addresses the issue of harmonization within and between these official documents, tracking both the identification of minimum standards compliant with international recommendations and the clarity on the chain of responsibilities of duty bearers with respect to the enforcement of these standards. Hence, Chapter Two presents a description of Uganda's international commitments as well as the national legal obligations on the HRWS.

The process analysis is presented under Chapter Three, providing an analytical overview of the policy framework with further assessment of the planning and implementation structures and processes. It was also necessary to verify that both the legal and policy provisions are realized in practice as presented in Chapter Four which provides evidence on how the HRWS norms, service standards and procedural guarantees are translated into implementation processes within the districts and at community level to support access to safe water and sanitation. This captures the steps taken by the State highlighting the major bottlenecks impacting on the fulfilment of the standards and in the endorsement of the duties identified at the structural level. This analysis is as necessary referenced with data and information from performance reports, secondary literature and field research undertaken in collaboration with local partners.

Both Chapters Three and Four provide the outcome analyses that show the extent the sector measures its fulfilment of the minimum standards by reviewing the various indicators employed in the WASH sector, and discuss how adequately they reflect the States obligations toward the HRWS, highlighting the levels of missing data that could otherwise be required. A critical assessment of the Ministry of Water and Environment's (MWE) sector performance framework (i.e. the Golden Indicators) is provided and recommendations are made on how to strengthen the disaggregation of the data in order to effectively reflect the progressive realization of universal access to safe water and sanitation. Chapter Five presents a summary of the findings drawing conclusions from all the levels of analyses and offers recommendations on how to address the identified gaps. An action Plan, which defines the way forward as discussed and agreed with the Ministry of Water and Environment during the final workshop held on 27th October, 2015 held in Kampala, is presented under Chapter Five.

This research confirms that the Government of the Republic of Uganda has recognized the human right to water and sanitation. Uganda has adhered to a number of international legal instruments and has made various political declarations that call for the realization of the right to water and sanitation, along the right's criteria and procedural guarantees. The National Constitution, the Water Act, the National Environment Act, the Public Health Act as well as other main legal documents embrace various provisions that relate to water supply and sanitation services. The legal analysis further shows that there is a need to better frame the right in the legal instruments in order to provide not only for adequate *accessibility, availability, quality, affordability* and *acceptability* of water and sanitation, but also to secure the related procedural guarantees of *non-discrimination, access to information, public participation, accountability* and *sustainability*. Each of these elements have been elaborated in this report and assessed in light of Uganda's international obligations as well as the national legislation.

Additionally, there is clear demonstration of the fact that water for domestic and personal use is prioritized in Uganda. This is mentioned in the National Constitution which confirms the State's objective to ensure that all Ugandans enjoy rights and opportunities and clean and safe water under General social and economic objectives (Objective XIV). This is also reiterated in the National Water Policy, 1999 (NWP, 1999), which identifies as a primary objective of the government, the provision of water for human consumption.

The first procedural guarantee analysed in this study is that of *non-discrimination*, which was found to be widely recognized by Uganda in numerous forums. This study shows that many aspects related to this procedural guarantee can be found in the fundamental law of Uganda but clear non-discrimination clauses are needed in other laws that were analysed. The NWP, 1999 supports the principle of non-discrimination and calls for equitable service delivery and MWE has taken a strong stance to address the inequitable distribution of rural water services between districts by allocating more funds to underserved parts of the country. It was, however, found that better characterization of the areas and groups that currently do not have access to safe water and sanitation is needed in order to ensure more targeted prioritization of the unserved and underserved and to better reflect progressive realization of HRWS in Uganda.

In terms of *access to information*, the international framework stresses the importance of giving to population a right to seek, receive and impart information concerning water and sanitation services as well as the environment. At the national level, the right to access to information is found in the National Constitution as well as in some of the Acts. The analysis shows that the water legislation needs to sufficiently stress the importance to inform the population about all circumstances that may be of an interest to them particularly if impacts on their access to basic access to safe water and sanitation.

At the level of Policy, the NWP, 1999 confirms that the Government shall promote public information and awareness on among other things, the planning, development and use of water resources. Other sector strategy documents also revealed provisions for access to information, such as in the National Water Quality Management Strategy, which has as one of its goals, to promote awareness and education on water quality management for all stakeholders, noting that it should be ensured that specific efforts are made to inform, educate and train citizens, stakeholders, and leaders about water quality.

At the level of service delivery, the National Water and Sewerage Corporation's (NWSC) Service Charter was found to have provisions for public information on disconnections for non-payment which entail providing 7-days 'notice prior to a disconnection for non-payment. Consultations at the district and local levels,

highlighted that a number of structures are in place for information sharing, but emphasized the need to have more information available at the level of decision-making, particularly with respect to low-cost technology options to ensure the integration of affordability and acceptability.

Closely linked to access to information, is the principle of *public participation*, which is fundamental in order to realize the right to water and sanitation in an effective manner. Participation allows for strengthening of the legitimacy of the decisions taken by the authorities or third parties, as well as the efficient implementation of the measures. This has been also recognized in the national legal framework and the adoption of additional safeguards would give full effect to this procedural guarantee. The Government of Uganda has adopted an elaborate decentralized system of government where public service delivery such water, health, primary and secondary education, is a responsibility of Local Governments. This is aimed at increasing local democratic control, participation in decision making, and mobilizing support for a development relevant to local needs.

Participation is clearly elaborated in a number of the sector policy and strategic documents: the NWP, 1999, emphasizes the full participation of the communities; the First Draft National Sanitation Policy, 1997, calls for participation of communities, including women in decision-making at all levels of service; and the Environmental Health Policy, 2005, emphasizes that interventions should respond to the differing needs of men, women and children, while recognizing that women are the main users of water and sanitation facilities. Participation at lower levels in rural districts was noted to be affected by such factors as lack of education, inferiority complex and fear to take up positions of decision-making. Among other factors highlighted is inadequate resources and guidelines necessary to ensure effective participation of the different categories of vulnerable community members including PWDs, elderly persons and other marginalized groups in all the stages of implementation. Some processes such as tariff-setting for on-site sanitation facilities and services were areas having low levels of participation irrespective of the fact that this impacts on affordability.

Based on international human rights law, service providers and public officials must be accountable to users in order to ensure the realization of the right to water and sanitation. The assessment of the principle of *accountability* shows that in Uganda, economic, social and cultural rights have been difficult to invoke in Courts over the past few decades. Only recently did the court adopt a more liberal approach to these rights. Accountability mechanisms, such as the Uganda Human Rights Commission which are enshrined in the legislation and others such as the Equal Opportunity Commission, are analysed in this report, offering an overview of the possible recourse for alleged violations of the right to water and sanitation. The right to effective remedy and oversight responsibilities are two requirements which need to be taken into account in this regard. In relation to oversight responsibilities, the State must also provide for mechanisms that establish oversight and control between both public and private actors in water and sanitation provision.

There is confirmation that Government of Uganda recognizes that “at the centre of service delivery is *accountability*, value for money, efficient and effective use of resources, improved communication and decision-making processes. If the accountability process is weak, value for money will not be realized.” In addition, good governance is clearly embedded in Uganda’s planning framework that consists of three key documents: The Budget Framework Paper (BFP), the African Peer Review Mechanism (APRM) and the National Development Plan (NDP 1 and 2) that provide the visions, targets and programmes of the Government of Uganda (GoU).

One of the key challenges that affects MWE’s accountability, as identified in this study, is the limited mandate for enforcing good governance in the sector: The MWE is mandated with the provision of water and sewerage services, yet the mandate on Local Government management, civil servants regulations, finance distribution and finance audit is given to the Ministry of Local Governments, Ministry of Public Service, Ministry of Finance Planning and Economic Development and Office of the Auditor General respectively. This limited mandate affects the implementation of direct incentives and sanctions that are very important in enforcing good governance practices. This notwithstanding, it is clear that MWE has made efforts to promote through such multi-stakeholder structures as the Good Governance Sub-Sector Working Group (GGWG) and the Environment and Natural Resources Good Governance Working group (ENR-GG-WG).

At the more local levels, the Uganda Local Government Association (ULGA) and ACODE developed a score card assessment for the district local governments DLGs which indicate the roles and responsibilities of the local leaders including the responsibility to monitor the facilities and identify/report issues that need to be addressed. This study, however, revealed that complaint and redress mechanisms will need further elaboration in order to effectively articulate the voice of the right-holders with respect to lack of respect, fulfilment or promotion of the HRWS. Apart from the judicial and para-judicial institutions, the WASH sector requires precise complaint processes to respond to issues emanating from the duties and obligations between service providers and customers. In this respect, it was found important to clarify the chain of responsibilities in complaint handling within the WASH sector and under what conditions complaints might be admissible at different level of the ladder of the chain of responsibilities. In addition, and despite the above mentioned efforts towards strengthening governance in the sector, there is still a lack of knowledge about governance, its meaning, the principles and how it can be practiced. Independent regulation was found to be a vital missing ingredient in furthering good governance in the sector, particularly in supporting enforcement and monitoring of the HRWS norms and service standards, in line with established sector laws, policies and guidelines.

Under the HRWS framework, governments are expected to adopt comprehensive and integrated strategies and programmes to ensure that there is *sufficient and safe water for present and future generations*, (i.e. ensure sustainability). The different safeguards enshrined in the main water related legal framework are discussed in this report. There is confirmation of the government's consciousness of this principle both in the legal, policy and strategic frameworks, as is stipulated, for instance, in the objectives of the mandate of the Directorate of Water Resource Management (DWRM) and in those of the National Environment Management Policy and subsequent Statute. As a riparian country, Uganda has established the International and Transboundary Water Affairs Department within the Directorate of Water Resources Management, which has initiated and coordinated a number of international and transboundary interventions, projects and programmes that works towards sustainability of the water resources. Within the country, however, both point and non-point source pollution pose major problems in the water bodies including in the Lake Victoria. Some of the challenges identified that impact on the principle of sustainability include lack of proper enforcement; the fact that Uganda has no developed water resource accounts; and the prevalently poor or non-existent integration between land and water management practices.

At the level of service standards, *accessibility, availability, affordability, quality, and acceptability* are addressed in this report. The report discusses these norms and standards along the legal, policy and implementation and monitoring frameworks (see Chapters 2, 3 and 4). A description of the HRWS interpretation is provided as well as the available national standards that are currently applicable. Gaps are identified and recommendations for improvements made for each of these standards.

This study utilized the human rights definition of *accessibility* which addresses three levels: physical accessibility, economic accessibility and non-discrimination. There is confirmation that access to water is generally legally provided for, but that there is a lack of positive obligations that would entitle the population to have access to safe water and sanitation. The government has reviewed the standard of physical accessibility in 2009, shifting the standard respectively from 1.5 km to 1 km for rural areas and from 0.4 km to 0.2 km for urban areas. Although MWE has guidelines in place to support realization of accessibility such as the Design Guidelines for Water Supply Infrastructure/the Water Supply Design Manual, there is a need to harmonize the references of standards in the guidelines in such a way that their application in both urban and rural areas are aligned with official standards cited in the development and sector documents. Additionally, current sector measurement framework indicators for accessibility were found to be lacking the right level of detail for data disaggregation and further refinement is recommended to accommodate all HRWS aspects of access.

The *availability* criteria is addressed in relation to three elements: general articulation of the availability component, prioritization of use of water for domestic purposes and continuity of service. The argument is that water for domestic and personal uses must be provided in sufficient quantity and on a continuous basis. International human rights law stresses that under no circumstances an individual shall be deprived of the minimum essential level of water. In Uganda, water availability is addressed indirectly under the type of water supply the population has access to, through the infrastructures that have been recognised as

improved water source. This is measured under the MWE performance measurement Golden Indicator Number 1 – in which the continuity of supply has related targets defined respectively for rural areas, as the number of improved water sources that are functional at time of spot-check, and for small towns, as the ratio of the actual hours of water supply to the required hours.

The Uganda Vision 2040 estimates the average water consumption of 2010 at 26 m³ per capita and sets the objective of 200 m³ per capita for 2040¹. In line with the requirement of this level of consumption, it places the goal of 100% of the population having access to a piped scheme by 2040 against the 2010 baseline situation of 15%. For water availability, two main governance challenges were identified: Lack of guidelines for regulation of private operators in small towns and in rural areas; and lack of independent regulatory mechanisms with respect to the operations of NWSC.

For sanitation, the standard regarding sufficient number of sanitation facilities is addressed by the type of infrastructure acknowledged as `improved` facilities. The data reporting on sanitation shows a level of disaggregation for schools but no data for such parameters is provided for communities. There is no target on the continuity of the service or on the functioning of the sanitation infrastructure. Access to hand-washing facilities and its effective use are set as a target for household level for hygiene standard.

Affordability of water and sanitation services also falls within the State's obligation to respect and fulfil the right to water and sanitation. To be in line with its obligations, the report stresses the importance to secure this procedural guarantee in the national framework namely by ensuring that disconnections do not occur without taking into account the capacity of the user to defray the required costs for the services obtained. Setting the financial contributions of households is directly related to the choice of technology options and their related operation and maintenance systems and should be undertaken with due consultation of the beneficiaries, in particular most vulnerable and marginalised groups, in order to tailor the design of infrastructures to their needs and their financial capacities. In doing so, the most challenging component of the assessment is to distinguish between the ability to pay from the willingness to pay, since human rights law protects households that do not have the financial capacities but not those who lack willingness to pay.

In rural water supply, the Design Guidelines confirm that the principle of affordability is "based on the assumption that 5% of household revenue can be dedicated to water related expenses (water supply and sanitation/sewerage),"² and that 2% of household revenue be dedicated to water more specifically.³ It is still to be assessed to what extent the guidelines focusing on water piped schemes constitute the official reference for the sector at large. Indeed, the implementation of this standard requires a strong coordinated approach to ensure that water and sanitation cumulative costs do not exceed the stated threshold at the household level. In urban, the guidelines for piped water schemes require carrying out socio-economic studies, using graph of expenditures and cumulative percentages of ability to pay proportions, to determine tariff structure and related service levels based on defined principles for the choice of technologies. This study identifies a number of challenges affecting affordability which include a lack of disconnection policy for urban areas and in rural areas a lack of clarity on aspects of Operation and Maintenance (O&M) with respect to accountability especially on accounting for collected fees as well as the actual ownership of the facilities.

Water quality is one of the most elaborated principle in the sector in Uganda with clear standards and guidelines aligned with the international standards. Quality as seen from the HRWS perspective explains that water must be free from organisms and hazards that constitute a threat to a person's health. In this regard, it shows among others that the Uganda National Standard for Drinking (potable) water is taken into account by the National Water and Sewerage Corporation but it remains unclear how the standards are applied to areas outside the NWSC: in practice NWSC monitors its drinking water quality internally without any complementary external monitoring. The lack of independent regulation is discussed under this section and the limitations of the current regulatory framework for water quality identified. In rural areas, the implementation of water quality guidelines was found challenging with districts being responsible for water quality monitoring. According to the MWE, this is done insufficiently and data is scarce due to lack of

¹ Republic of Uganda, Uganda 2040 Vision: p. 14.

² MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 35.

³ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 106.

capacities and enforcement. Compliance of rural safe drinking water to national water quality standards was 53% (for e-coli) with the target set at 95%. These statistics are based on protected wells, a small proportion of water sources, since the majority of rural people get water from unprotected wells.

Finally, the report analyses the *acceptability* criteria, whereby users' needs and preferences are taken into account to ensure that they do not resort to unsafe water sources. The current legislation is discreet in this regard and additional safeguards could be added in the law to protect, respect and fulfil the realization of this criteria.

Based on the these varied levels of assessment, four key recommendations for promoting universal access to safe water and sanitation in Uganda have been advanced and detailed in the Action Plan under Chapter 5 as follows:

1. **Enhanced Legal Framework:** Consider legal options that will address gaps identified in the current legal framework for enhancing the enabling environment for HRWS compliance and delivery in Uganda;
2. **Harmonized National Standards:** Revise current national water, sanitation and hygiene standards and the sector performance measurements to align with HRWS norms and service criteria and the SDG goals/targets;
3. **Baseline Analysis and Target Setting for HRWS Implementation:** i) Establish a baseline with clear disaggregated data of the unserved areas and groups based on the specification of minimum core obligations with respect to substantive and procedural rights that apply nationally irrespective of rural/urban divide; and ii) Define a Targeted Strategy for Progressive Realization of Safe Water and Sanitation for all; and
4. **Accountability:** Review the current Governance Framework to promote accountability and independent regulation to support enforcement of norms and standards that will accelerate universal access. Expedite the process of setting up the independent regulator.

It is anticipated that the MWE and the water, sanitation and environment sector partners will utilize the findings from this country mapping in further articulating the HRWS norms and standards in the planning, implementation and monitoring processes. This will be in line with the recent Joint Sector Review 2015 *Undertaking Number 10 on Policy and Institutional Issues* which commits to “review the sector performance monitoring framework to incorporate the water quality monitoring, good governance, the human right to water, climate change, the Sustainable Development Goals (SDGs) and the National Development Plan II” (See, JSR, 2015 Agreed Minutes, page 20).

Given the scope of this study, further analyses may be required as well as support to MWE to deliver targeted trainings on the application of the various principles of the HRWS with a view to enhancing state and note actors' capacities and to provide further information on the strengthening the sector monitoring framework for the progressive realization of HRWS in Uganda as the sector moves towards universal access.

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List of acronyms and abbreviations

ACFODE	Action for Development	ECOSAN	Ecological Sanitation
ACODE	Advocates Coalition for Development and Environment	EIA	Environmental Impact Assessment
ACPHR	African Charter on Human and Peoples' Rights	EMLI	Environmental Management for Livelihood Improvement
ACRWC	African Charter on the Rights and Welfare of the Child	ENR	Environment and natural resources
ADA	Austrian Development Agency	EOC	Equal Opportunity Commission
AMCOW	African Ministers' Council on Water	ERP	Economic Recovery Pro-gram
APRM	African Peer Review Mechanism	ESCR	Economic, Social and Cultural Rights
APWO	Association of Private Water Operators	EU	European Union
ATC	Appropriate Technology Centre	FAO	Food and Agriculture Organization of the United Nations
BFP	National Budget Framework Paper	FGD	Focus Group Discussion
CAO	Chief Administrative Officer	FOWODE	Forum for Women in Democracy
CAPEX	Capital Expenditures	GDP	Gross domestic product
CBMS	Community Based Maintenance System	GFS	Gravity Flow Schemes
CBOs	Community based organizations	GGAP	Good Governance Action Plan
CDO	Community Development Officer	GGWG	Good Governance Sub-Sector Working Group
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	GIWA	Global International Waters Assessment
CEHURD	Center for Health, Human Rights and Development	GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
CEWIGO	Center for Women in Governance	GLAAS	Global Annual Assessment of Sanitation and Drinking-Water
CIDI	Community Integrated Development Initiatives	GoU	Government of Uganda
CLTS	Community Led Total Sanitation	GPOBA	Global Partnership of Output-Based Aid
CNDPF	Comprehensive National Development Planning Framework	GWP	Global Water Partnership
COU-TEDDO	Church of Uganda-Teso Dioceses Planning and Development Office	HDI	Human Development Index
CRM	Country Review Mission	HoMs	Heads of Missions
CRPD	Convention on the Rights of Persons with Disabilities	HPM	Hand-Pump Mechanic
CSOs	Civil society organizations	HPMA	Hand-pump Mechanics Associations
DANIDA	Danish Development Agency	HRWS	Human right to water and sanitation
DCDO	District Community Development Officer	ICC	International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights
DEA	Directorate of Environmental Affairs	ICESCR	International Covenant on Economic, Social and Cultural Rights
DFE	Development Finance Funds	IDPs	Internally displaced persons
DGF	Democratic Governance Facility	IGAD	Inter-Governmental Agency for Drought
DHS	Demographic and Health Surveys	ILO	International Labour Organization
DIM	District Implementation Manual	IRC	International Rescue Committee
DLG	District Local Government	IRWR	Internal renewable water resources
DPs	Development partners	ISH	Improved Sanitation and Hygiene
DRA	Demand Responsive Approach	IWRM	Integrated Water Resources Management
DSCG	District Sanitation Conditional Grant	JAF	Joint Assessment Framework
DWD	Directorate of Water Development	JICA	Japan International Cooperation Agency
DWO	District Water Office	JBSF	Joint Budget Support Framework
DWRM	Directorate of Water Resources Management	JESE	Joint Effort to Save the Environment
DWSCG	District Water and Sanitation Conditional Grants	JMP	Joint Monitoring Programme
DWSDCG	District Water and Sanitation Development Conditional Grant	JSR	Joint Sector Review
EAC	East African Cooperation	JPF	Joint Partnership Fund

JWESSP	Joint Water and Environment Sector Support Programme	NWP	National Water Policy
KBO	Kagera Basin Organization	NWQ	National Water Quality
KCCA	Kampala Capital City Authority	NWQMS	National Water Quality Management Strategy
KI	Key Informant	NWSC	National Water and Sewerage Corporation
LC1	Local Council 1	NWSG	National Sanitation working group
LG	Local Government	O&M	Operations and maintenance
LGA	Local Governments Act	ODI	Overseas Development Institute
LGDF	Local Government Development Fund	OHCHR	Office of the High Commissioner for Human Rights
LGDP	Local Government Development Plan	OPEX	Operating Expenditure
LGFC	Local Government Finance Commission	OPM	Office of the Prime Minister
LGU	Local Government Unit	OVCs	Orphans, vulnerable children
LLG	Lower local government	PAC	Public Accounts Committee
LVFO	Lake Victoria Fisheries Organization	PAF	Poverty Action Fund
LVEMPII	Lake Victoria Environment Management Project Phase II	PCIV	Performance Contract IV (NWSC)
M4W	Mobile Phone for Water	PDC	Parish Development Committee
MAC	Maximum Acceptable Concentration	PDG	Partners for Democracy Group
MAAIF	Ministry of Agriculture, Animal Industry and Fisheries	PEAP	Poverty Eradication Action Plan
MDG	Millennium Development Goals	PHA	Public Health Act
MEA	Multilateral Environmental Agreement	PO	Private sector operator
ME&R	Monitoring, evaluation and reporting	PPP	Public-private partnership
MFA	Ministry of Foreign Affairs	PRDP	Peace, Recovery and Development Plan
MGLSD	Ministry of Gender, Labour and Social Development	PWD	Persons with disabilities
MHM	Menstrual Hygiene Management	RGC	Rural Growth Centre
MIS	Management Information System	RWSS	Rural water supply and sanitation
MLG	Ministry of Local Government	RWH	Rainwater harvesting
MoES	Ministry of Education and Sports	SAPs	Structural Adjustment Pro-grams
MoFPED	Ministry of Finance, Planning and Economic Development	SBS	Sector Budget Support
MOH	Ministry of Health	SDC	Swiss Development Cooperation
MP	Member of Parliament	SDG	Sustainable Development Goals
MTEF	Medium Term Expenditure Framework	SFG	School Facility Grant
MWE	Ministry of Water and Environment	SIDA	Swedish Development Agency
MWE-PRT	MWE Performance Review Team	SIP	Sector Investment Plan
MWLE	Ministry of Water, Lands and Environment	SIPs	Strategic Investment Plans
NAWAD	National Association for Women's Action in Development	SIWI	Stockholm International Water Institute
NBFP FY	National Budget Framework Paper Financial Year	SODIS	Solar water disinfection
NBI	Nile Basin Initiative	SPR	Sector Performance Report
NDP	National Development Plan	SSIP	Strategic Sector Investment Plan
NEA	National Environment Act	SWAp	Sector-Wide Approach to planning
NEMA	National Environment Management Authority	SWG	Sector Working Group
NEPAD	New Partnerships for Africa's Development	SWSSB	Sub County Water Supply and Sanitation Boards
NETWAS	Network for Water and Sanitation	TAACC	The Apac Anti-Corruption Coalition
NFA	National Forestry Authority	TECCONILE	Technical Cooperation Committee for the Promotion of the Development and Environmental Protection of the Nile Basin
NGO	Non-governmental organization	TOR	Terms of reference
NIMES	National Integrated Monitoring and Evaluation Strategy	TSUs	Technical Support Units
NRM	National Resistance Movement	UBOS	Uganda Bureau of Statistics
NSDS	National Service Delivery Survey	UCPC	Uganda Cleaner Production Center
NUSAF	Northern Uganda Social Action Fund	UDHR	Universal Declaration of Human Rights
		UGMP	Uganda Governance Monitoring Platform
		UGOGO	Ugandan Good Governance Programme
		UHRC	Uganda Human Rights Commission
		ULGA	Uganda Local Government Association

ULGFC	Uganda Local Government Finance Commission	UYONET	Uganda Youth Network
UN	United Nations	VFM	Value for money
UNAIDS	Joint United Nations Programme on HIV and AIDS	VHT	Village Health Team
UNBS	Uganda National Bureau of Standards	VIP	Ventilated Improved Pit
UNDAF	United Nations Development Assistance Framework	WASH	Water, Sanitation and Hygiene
UNDESA	United Nations Department of Economic and Social Affairs	WDN-U	Women's Democracy Network-Uganda Chapter
UNDP	United Nations Development Programme	WEDA	Wera Development Agency
UNEP	United Nations Environment Programme	WESLD	Water and Environment Sector Liaison Department
UNFCCC	United Nations Framework Convention on Climate Change	WESWG	Water and Environment Sector Working Group
UNGA	United Nations General Assembly	WfP	Water for Production
UNHS	Uganda National Household Survey	WHO	World Health Organization
UNICEF	United Nations Children's Fund	WIN	Water Integrity Network
UNIFEM	United Nations Development Fund for Women	WMZ	Water Management Zone
UNPAC	Uganda National Plan of Action for Children	WQM	Water Quality Monitoring
UNPRAP	United Nations Peace Building and Recovery Assistance Plan for Northern Uganda	WRMD	Water Resources Management Department
UPE	Universal primary education	WSC	Water and Sanitation Committee
UPIMAC	Uganda Project Implementation & Management Centre	WSDF	Water and Sanitation Development Facilities
UPPAP	Uganda Participatory Poverty Assessment Process	WSGS	Water Sector Gender Strategy
USF	Uganda Sanitation Fund	WSLD	Water & Environment Sector & Liaison Division
UWA	Uganda Wildlife Authority	WSP	Water and Sanitation Program
UWASNET	Uganda Water and Sanitation Network	WSS	Water supply and sanitation
UWONET	Uganda Women's Network	WSSA	Water Supply and Sewerage Authorities
UWSS	Urban water supply and sanitation	WSSB	Water Supply and Sewerage Board
		WSSWG	Water and Sanitation Sector Working Group
		WUA	Water User Association
		WUC	Water User Committee
		WURD	Water Utility Regulation Department
		YLP	Youth Livelihood Program

Introduction

This one-year research project was funded by the Austrian Development Agency (ADA) and the Danish Development Agency (DANIDA) with co-financing from the Swedish International Development Agency (SIDA) and the Swiss Development Cooperation (SDC) through WaterLex. This project contributes to both ADA and DANIDA's focus on mainstreaming a Human Rights Based Approach in interventions by contributing to the realization of the human right to safe water and sanitation (HRWS) in Uganda, (JWESSP 2013-2018).

The project has been implemented by WaterLex, an international non-governmental organization whose mission is to improve water governance worldwide through the implementation and realization of the human right to water and sanitation, through the support of two local partners: WaterAid Uganda and the National Association for Women's Action in Development (NAWAD). The Stockholm International water Institute (SIWI), Stockholm, provided technical support through a locally recruited Senior Gender Expert, who provided necessary inputs to both the planning and analysis stages of the project. The inputs of this expert was guided and supervised directly by SIWI.

The principal project purpose (intended outcome) was an increased alignment of key sector policy frameworks and implementation strategies with the existing human rights commitments of the Ugandan government.

The project set out to achieve the following four key results:

1. Actors in of the water sector in Uganda are aware of the state of implementation of the HRWS in Uganda.
2. Concrete proposals for amendments of policies and strategies (e.g. the Pro-Poor Strategy and current sector practices) for improved implementation of the HRWS are ready to be applied by the WSLD, the relevant MWE departments, MWE's de-concentrated structures and local governments;
3. Data gathering and monitoring of sector achievements and progress brings more clearly into focus which groups in society currently require priority given their current vulnerability and marginalisation; and
4. Increased awareness among key decision makers in the sector on legal measures needed to further align Ugandan laws pertaining to water and sanitation with human rights commitments has been promoted and related policy debate triggered

The project-implementation processes was organized into two distinct but interlinked phases:

1. The first phase (01 December 2014 to 31 March 2015) involved research, mapping and the review of the Pro-Poor Strategy and the sector-performance monitoring system. This first phase of the project i.e. the country mapping as a first step generated the baseline information.
2. The second phase (01 April 2015 to 31 October 2015) was devoted to collecting evidence from sampled districts on the actual implementation and monitoring of HRWS; leading to the recommendations for adjustments to the Pro-Poor Strategy; the initiation of practical operational measures, and the elaboration of recommendations for adjustments of data gathering, information management and performance monitoring.

The methodology employed by the research team was refined by WaterLex in December 2014, following the peer review of the same during the first WaterLex Indicators Conference held in November 2014 in Geneva. A summarized matrix table with guiding questions was prepared which was presented and discussed with MWE and the local team in mid-January 2015 in Kampala. This methodology is based on the Structure, Process and Outcome Indicators framework and has taken into account the human rights-obligations approach, which entails state obligations to Respect, Protect, and Fulfil the right. This methodology was further guided by the key elements of the right to water as stated both in the General Comment No. 15 on the right to water and in the UN Special Rapporteur on the Right to Safe Drinking Water and Sanitation handbook.

An inception workshop was held in January 2015 with a further planning workshop for district sampling and defining the research protocol held in April 2015. Preliminary findings were presented to the sector during the Joint Sector Review (6-8th October 2015) in which the Undertaking Number 10 on Policy and Institutional Issues commits MWE to:

review the sector performance monitoring framework to incorporate the water quality monitoring, good governance, the human right to water, climate change, the Sustainable Development Goals (SDGs) and the National Development Plan II (JSR, 2015 Agreed Minutes, page 20).

A final workshop to share the project findings and discuss the way forward was held on 27th October 2015 in which the legal mapping and options; the policy provisions, planning, implementation and monitoring mechanisms and recommendations were presented and an Action plan defined agreed as presented under Part 4 of this report.

Disclaimer

Despite the rigorous methodology followed for the realization of this study, some limitations impacted the research:

- ❖ Public access to up-to date legislation and official documents of Uganda was a considerable challenge. Although this, in the end, has not severely affected the content of the study, unexpected delays occurred with the identification and gathering of documents during the desk study.
- ❖ The research on the national legal framework is based exclusively on the documents identified in Chapter two. The present report does not seek to provide a complete analysis of all existing laws, ordinances, by-laws or other legal instruments issued by the central or local governments of Uganda, nor does it intend to offer an analysis of the implementation of the law.
- ❖ Finally, interviews could not be held with all institutions and organs concerned by this study due to time constraints and availability of interlocutors. As a result, some information that could not be confirmed with other stakeholders or documentary evidence had to be disregarded.



CHAPTER ONE
CONTEXTUALIZING THE REALIZATION OF THE HUMAN RIGHT TO
WATER AND SANITATION IN UGANDA

PART I: COUNTRY CONTEXT

Part I of Chapter 1 provides the background on Uganda giving the context of the regional location, demographics, the situation of the country's water resources and the economic situation. Part II pays attention to the national development framework and seeks to illustrate the evidence of the progressive realization of the human right to water in Uganda with close reference to the government's provisions for HRWS. This reviews the national planning, implementation and monitoring arrangements and as much as possible provides evidence of the Government of Uganda's general effort to integrate principles of human rights norms and standards in past and on-going processes. Gaps and areas that pose challenges that have significant impact on the pace of implementation and monitoring of HRWS are highlighted. Chapter 1 is relevant to this study given the fact that the human right to water and sanitation is inextricably linked to



other rights (hence other sectors) as well as due to that the fact that the water and environment sector is supported by government structures that may well be outside of its institutional arrangements particularly with respect to national law-making and enforcement, broader inter-sectoral planning, coordination and monitoring.

1.1. Introduction

Water is at the core of sustainable development and is a key determinant in all aspects of social, economic and environmental development. It is essential for human life, poverty reduction, dignity, gender fairness and other basic human development objectives. Water is also crucial for the production of food and energy, and intervenes in the production of almost all the goods and services in any economy and to the preservation of the water ecosystems on which human life and the economy critically depends on for preserving biodiversity, regulating the climate, providing amenities and sustaining the continuous provision of water for maintaining life and sustaining economic progress (Millennium Ecosystems Assessment, 2005). The management activities of water and the environment should therefore neither compromise the

requirements of the future nor the ecological requirements but should be central to an integrated planning and development process, (GWP, 2013).

The 1948 Universal Declaration of Human Rights implicitly recognizes the right to safe drinking water and sanitation as an economic, social and cultural right. Article 25 (1) states that:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care.”

In 2010, the U.N. General Assembly confirmed this interpretation by affirming:

“The human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.”⁴

This is further emphasized by the Committee on Economic Social and Cultural Rights which highlights that:

“The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”

There is emphasis by the Committee that the water supply for each person must allow for personal and domestic uses, including drinking, personal sanitation, food preparation, personal and household hygiene. Moreover, ensuring that everyone has access to adequate sanitation is fundamental for human dignity and privacy, is essential for protecting the quality of drinking water supplies and resources (General Comment 15. para. 2, 12 & 37).

There is still an important gap to be bridged to move towards a universal access to safe drinking-water and sanitation. Advances have been unequal and while evident in medium income countries, compared with those in the poorest regions in Sub-Saharan Africa, which have experienced limited improvements. Besides reasonably good aggregate outcomes, a detailed analysis of progress towards the achievement of MDGs shows that often improvements in access do not always reach those groups who need them most. This is clear in WASH coverage which still mirrors the pervasive inequalities both between and within countries (GLAAS, 2014). The key differences between urban and rural areas, slums and formal urban settlements, men and women; and disadvantaged groups and the general population are pervasive. In many regions, women and girls bear the burden of fetching water (UN Water, UNDESA and UNICEF, 2013). At the level of water quality and protection of ecosystem services, the water challenges go beyond WASH for all and encompass preserving and protecting water quality as an integral precondition of sustainable water development. This elements are now captured in the Post 2015 development framework which recognizes the need to widen the ambition of the water agenda and include wastewater management, water quality and protecting ecosystems.

In terms of impact arising from the existing disparities and lack of access, a recent report by the International Labour Organization (ILO) for instance confirms that, there are approximately 2 million work-related deaths annually of which 17% were related to work-related communicable diseases with the main contributing and preventable factors including poor-quality drinking water, poor sanitation, poor hygiene, and related lack of knowledge. In general, the ILO estimates that poor occupational safety and health practices reduce global gross domestic product by 4 % each year (ILO 2014 para. 3).⁵ These figures underscore the need for governments to hasten the pace of their efforts towards securing safe drinking water and sanitation for all, including in the workplace. Implementation of the post-2015 development

⁴ See, UNGA. 2010 International Covenant on Economic, Social and Cultural Rights Available at: <http://www.ohchr.org>
The right to water is also implicitly or explicitly recognized in a number of other international agreements and declarations such as: Human Rights Council Resolution A/HRC/RES/15/9; International Covenant on Economic, Social and Cultural Rights. Adopted by General Assembly resolution 2200 A (XXI) of 16 December 1966. Entry into force: 3 January 1976; Convention on the Elimination of All Forms of Discrimination against Women. Adopted by General Assembly resolution 34/180 of 18 December 1979. Entry into force: 3 September 1981; Convention on the Rights of the Child. Adopted by General Assembly resolution 44/25 of 20 November 1989. Entry into force: 2 September 1990; Convention on the Rights of Persons with Disabilities. Adopted by General Assembly resolution 61/106 of 13 December 2006. Entry into force: 3 May 2008.

⁵ http://www.ilo.org/public/libdoc/ilo/GB/322/GB.322_LILS_4_engl.pdf.

from March through May and light rains from September through December. The average precipitation in Uganda is 1180 mm/yr; which totals to about 280 km³/yr over the entire country.⁹ The level of rainfall decreases as one travels northward, turning into just one rainy season a year. The soil fertility varies accordingly, being generally fertile in the Central and Western regions and becoming less fertile as one moves to the east and the north. Because climate varies, Uganda's topography ranges from tropical rain forest vegetation in the south to savannah woodlands and semi-arid vegetation in the north. Climate determines the agricultural potential and thus the land's capacity to sustain human population; population densities are high in the Central and Western regions and decline towards the north.

The fresh water resources in Uganda cover over a third of Uganda's surface area reported as 11% of the total surface area (according to the Uganda Vision 2040) with large active storage capacity in lakes Victoria, Albert, Kyoga, George, and Edward. Uganda has a vast network of rivers that connect to these various lakes. Uganda's water resources follow four river basins (or catchments). Four water management zones have been created according to the underlying basins. Uganda also has ground water renewable resources estimated at 29 km³ per year. The total renewable water resources amount to 43.3 billion cubic metres per year of which only 13.6 billion cubic metres per year is the internal renewable water resources.¹⁰

The current consumptive utilization rate of internal renewable water resources (IRWR) stands at 2.8 percent which is reported as being relatively low and attributed to limited engagement in water consumptive economic activities (para. 168 pg 64 of the Uganda Vision 2040). The irrigation potential exploited is about 3.6 percent (14,418 out of 400,000 hectares). Similarly, national urban water coverage is estimated at 66 percent in 2008 and rural coverage ranges. It is also estimated that only 15 percent of hydro power potential is utilized in Uganda.

1.5. Economic Situation

Uganda Vision 2040 confirms that over the last 50 years, the country has made significant development progress. In 2007, the Government approved the Comprehensive National Development Planning Framework policy (CNDPF) which provides for the development of a 30 year Vision to be implemented through: three 10-year plans; six 5-year National Development Plans (NDPs); Sector Investment Plans (SIPs); Local Government Development Plans (LGDPs), Annual Work Plans and Budgets. Consequently, the Cabinet approved the National Vision Statement, *"A Transformed Ugandan Society from a Peasant to a Modern and Prosperous Country within 30 years"*. This vision statement has been translated by the National Planning Authority (in consultation with other government stakeholders) into the Uganda Vision 2040 for operationalization.¹¹

A number of economic policies and programs such as the Structural Adjustment Programs (SAPs), Economic Recovery Program (ERP), Poverty Eradication Action Plan (PEAP) have been successfully implemented leading to a boost in economic growth. Since 2002, the economy grew consistently at an average of 6.4 percent and has since built sufficient momentum for take-off, (Uganda Vision 2040).

Between 1992 and 2010 Uganda succeeded in reducing the poverty rate from 56 per cent of the population to 24.5 per cent having thus successfully met its 2015 target. In spite of these positive trends there is still close to a quarter of the population living in extreme poverty particularly in Northern Uganda (2.84 million), as a result of more than 20 years of conflict which ended in 2006.

In the period between 2006 and 2011, the country's growth in GDP varied between 5.6 percent and 7.1 percent a year (UBOS, 2006a). The Government of Uganda has pursued a poverty eradication agenda through the implementation of the Poverty Eradication Action Plan (PEAP). Over the period of its existence,

⁹ Economic Assessment of the Impacts of Climate Change in Uganda, Data Water Sector Report, November 2014 available at: http://www.futurewater.nl/wp-content/uploads/2015/03/Impacts-of-CC-in-Uganda-Water_v3-clean-final.pdf.

¹⁰ Summarized from FAOs AquaStat.

¹¹ The Vision 2040 is conceptualized around strengthening the fundamentals of the economy to harness the abundant opportunities around the country. The opportunities include; oil and gas, tourism, minerals, ICT business, abundant labour force, geographical location and trade, water resources, industrialisation, and agriculture. On the other hand, the fundamentals include: infrastructure for (energy, transport, water, oil and gas and ICT); Science, Technology, Engineering and Innovation (STEI); land; urban development; human resource; and peace, security and defence.

PEAP made a strong contribution to poverty reduction in the country, helped manage macroeconomic stability and hence laid the foundations for further strengthening economic growth. PEAP implementation reduced poverty from 44 percent in 1997/1998 to 31 percent in 2005/2006 although regional inequalities remain.

Although Uganda's Human Development Index (HDI) has been rising and reached 0.484 in 2014, it has not been keeping pace with other countries and its global HDI ranking fell from 140th in 2000 to 164th (out of 187) in 2013¹². There has been stagnation or reversal in indicators on universal primary education and health, in particular HIV.

Additionally, while most of the realization of the Millennium Development Goals (MDGs) has resulted in good progress, Uganda remains one of the poorest nations in the world. 38% of the population lives on less than \$1.25 a day¹³ and the absolute number of poor people has in fact barely changed since 1990 due to population growth. Income inequality is also high (with a Gini coefficient of 0.438), which could undermine any achievements made in growth and poverty reduction. Development is skewed towards the Central and Western regions, where poverty levels are below 10%, compared with 25% in the Eastern and 44% in the Northern regions¹⁴.

Uganda still faces serious challenges: most policies, laws and standards are up-to-date, but Implementation and enforcement remain weak. Social services, especially health and education, continue to be functionally weak; social protection is fragmented, with large vulnerable population groups not covered. Sound governance, including transparency and accountability, are not yet a universal norm, resulting in 85 percent of Ugandans living in disadvantaged rural areas with hunger and food insecurity posing a major problem and number of undernourished people rising to 4.4 million in 2008.

Eighty-five percent (85%) of Ugandans live in disadvantaged rural areas where resources and potential to tap for higher economic growth are underutilized, hence this constitutes majority of the poorest and most vulnerable groups.

A recent report by the WSP, World Bank (April, 2015)¹⁵ confirms that of the 34.1 million¹⁶ people in Uganda, 77% live in rural areas and that a disproportionate number of the poor people and Bottom 40% are in fact rural residents: *Of the 6.7 million poor people 89% (6 million) live in rural areas and 700,000 live in urban areas. Most of the urban poor live in small towns (600,000). Similarly 90% of the economically disadvantaged live in rural areas.*

Drawing data from the 2012/2013 Uganda National Household Survey, (UNHS), this report draws interesting conclusions confirming that the poor and economically disadvantaged people lack access to improved water and sanitation primarily because they live in rural areas, and not due to their income levels. Similarly there is confirmation that piped water schemes are used primarily by the wealthier income groups especially in urban areas, while boreholes (hand-pumped supplies) are the principal water supply used by the poor and the Bottom 40% in rural and urban areas.

It is acknowledged that the PEAP placed priority on increasing the share of the sector budget going to rural water supply and in particular the Pro-poor Strategy set an implicit target that over 50% of the sector budget goes to rural water services. This share of the sector budget for rural, has however, been between 33% to 45% in the period 2009/10 to 2012/13, with a general marked decline of central grants DWSCGs to District Water Offices.

¹² hdr.undp.org/sites/default/files/hdr14_statisticaltables.xls.

¹³ data.worldbank.org/indicator/SI.POV.DDAY.

¹⁴ Uganda Bureau of Statistics (2013) *Uganda National Household Survey 2012/13*.

¹⁵ Mutono et al 2015: *Water and Sanitation for the Poor and Bottom 40% in Uganda: A review of Strategy and Practice since 2006*.

¹⁶ According to the SPR 2014, data and projections from the Uganda Bureau of Statistics (UBOS) indicate that the population estimated at 36.6 million by mid-2014 rose from 35.4 (mid-2013) - a growth of 1.2 million people (85%) who are living in rural areas.

PART II: ENABLING ENVIRONMENT FOR HRWS IN UGANDA'S NATIONAL DEVELOPMENT PLANNING

This section provides the general political, national planning and implementation mechanisms that support development sector planning, implementation and monitoring. This is crucial because some of the mechanisms and structures that support the water and environment sector are outside of the mandates of MWE and yet have a huge impact on the way access to safe water and sanitation is planned and realized. Additionally, the realization and monitoring of the HRWS in Uganda is the broad responsibility of the government of Uganda, hence it was deemed valuable to assess which national programmes, resources and policies are made available to support sector level interventions related to safe water and sanitation.

1.6. The Contribution of the Uganda Parliament to Promoting the HRWS

Given the critical role parliament plays in the formulation of legal and policy frameworks governing a country, it is important to take note of the contribution that the cabinet of the government of Uganda has made towards creating an enabling environment for accelerating access to water and sanitation.

- a) Uganda's 1996 constitution gave the parliament power to censure ministers and approve presidential appointments, and granted **committees** the authority to introduce legislation. The adoption of a Committee system has enabled more systematic review of bills and policy proposals from the Executive as well as more effective oversight.
The Uganda PEAP itself suggests that "Parliament has a fundamental role both in passing legislation that bears on poverty reduction, and in scrutinizing the executive".¹⁷ In practice, Parliament's involvement in developing and monitoring progress against the PEAP has been limited due to the shift to multi-party politics which partially undermined the sense of ownership around Uganda's plans for poverty reduction.¹⁸
- b) A permanent **budget committee**, was established by parliament through which a professional **budget office** was established to assist MPs in analysing the proposed executive budget, set limits on what government could borrow without prior parliamentary approval, and required Government to submit a draft executive budget to parliament three months prior to the normal budget submission date.¹⁹
- c) **Rule 133 of the Rules of Procedure of Parliament** mandates Sessional Committees to critically examine Government's Recurrent and Capital budget estimates and to make recommendations for general debate in the House.
- d) The **Human Rights Committee** of the Parliament of Uganda was created on 21st May, 2012 with the mandate to ensure compliance with human rights standards in all business before Parliament.
- e) A simple criteria against which an assessment of human rights compliance can be made *i.e.* **Checklist for Human Rights** is established to provide a mechanism to quickly alert Members of Parliament on the human rights implications of the provisions of a Bill, strategy, policy or government programme handled in Parliament. The test posed by this checklist shall guide the Committee on the issues to look out for in Bills, budgets, policy statements and other government programmes introduced in Parliament. The checklist will also guide with certainty the Executive and the Members of Parliament, the Committee members and other stakeholders on what they need to comply with, before introducing any business in the House.²⁰
Although this checklist does not have specific questions for the HRWS it remains highly relevant as it reinforces the right to life and it further confirms that there is an enabling environment

¹⁷ Government of Uganda, 2005, p. 8.

¹⁸ Dr. Anthony Tsekpo (Parliamentary Centre) and Dr. Alan Hudson (ODI), Parliamentary Strengthening and the Paris Principles, Uganda case study: <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/4424.pdf>.

¹⁹ John K. Johnson, The Role of Parliament in Government, World Bank Institute 2005: <http://siteresources.worldbank.org/PSGLP/Resources/RoleofParliamentinGovernment.pdf>.

²⁰ Standing Committee on Human Rights, Checklist for compliance with human rights in policy, bills, budgets, government programmes and all business handled by Parliament: http://www.parliament.go.ug/new/images/stories/hr_checklist_13.pdf.

established for realizing HRWS in Uganda right at the top arm of government: The key objectives of the Checklist confirm that Uganda has established necessary political structures that support the implementation and monitoring of HRWS:

- to ensure and determine that a rights-based approach informs the work and is reflected in Bills, programmes, budgets and other government policies;
- identifying the specific human rights aspects provided for in the various articles under Chapter Four of the Constitution and how they should be incorporated and catered for in government programmes, budgets and policies to ensure that there is non-discrimination, including on the basis of gender, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability, attention to vulnerabilities (minorities); accountability; empowerment and participation and inclusiveness;
- to identify the capacity of duty-bearers (i.e., institutions/government agencies) to meet their obligations in the relevant sectors; and
- to build and provide for the capacity of rights-holders (beneficiaries) to make claims and realize their entitlements in the relevant aspects of human rights.

1.6.1. Parliamentary committees

At the start of a new parliamentary session, members choose which committees they would like to serve on. Unlike the plenary discussions, parliamentary committees have been largely non-partisan especially because in many instances committee discussions and debates are highly technical and involve a great deal of interface with governmental and non-governmental technical experts. While it is true that the committees largely consist of National Resistance Movement (NRM) members (they are the majority in parliament), the committees have functioned in a non-partisan manner because of the nature of their work which is more technical than political, (Global Integrity, 2011).

Parliament has passed a number of laws some of which relate to water and environment sectors and works through *parliamentary committees* to realize their implementation:

- i) The *Sessional Committee on Social Services* is mandated by Parliament to oversee the activities of the Ministry of Education and Sports; Ministry of Health; and other departments and parastatal institutions under the Committee's jurisdiction. It comprises of twenty (20) Members selected from among Members of Parliament on the basis of the parties or organizations represented in Parliament. Although Sanitation issues fall directly under the mandate of the Ministry of Education and Sports; and Ministry of Health, there is no mention in the Committee Reports of sanitation issues.

In 2010, the Social Services Committee of Parliament made recommendations to improve the policy environment of the WASH Sector (Parliament of the Republic of Uganda, 2010):

- The Committee observed that there is lack of a legal and policy framework for public-private partnership on water management and a policy frame work to attract investors in the sector. The Committee recommended that Government come up with a legal and policy framework in order to address some of the challenges being faced in the sector.
 - The Committee observed that the Ministry of Water and Environment and other Government Departments do not have a comprehensive approach towards sanitation. The Committee recommended that the Government comes up with an all-encompassing strategy towards sanitation in all Government Departments that deal with that component. (Parliament of the Republic of Uganda, 2010)
- ii) The *Committee on Natural Resources* is mandated by Parliament to oversee the activities and programmes of the Ministry of Energy and Mineral Development; and Ministry of Water and Environment. It comprises of twenty (20) Members selected from among Members of Parliament on the basis of the parties or organizations represented in Parliament. The Committee on Natural Resources is specifically mandated to cover the policy proposals and budgetary estimates for the following votes:
 - Vote 017 Energy and Mineral Development
 - Vote 019 Water and Environment

- Vote 150 National Environment Management Authority (NEMA) and
- Vote 157 National Forestry Authority (NFA)

In its legislative function, Parliament has a crucial role to play in promoting equity in the allocation of resources - taking into account the diversities and dynamics of different demographic groups, geographic locations and geo-economic activities among others.

Parliament has in the past, through legislation, supported NWSC for example, to scrap VAT on water and sanitation which is a basic need. Parliament has supported WASH through ensuring the NWSC receives grants as opposed to loans which attract high servicing costs. NWSC had a big debt-burden, but parliament restructured it, making NWSC debt-free.

1.6.2. The role of Parliament in promoting equity in participation

According to the Uganda bureau of Statistics, out of the estimated total population of Uganda (32 million) 51% are women.²¹ It is confirmed that the Constitution of Uganda and the Uganda Gender Policy provide a positive legal and policy framework for gender equality and the promotion of women's rights, including affirmative action in favour of women and other marginalized groups to redress current disparities.

Effective representation of citizens' interests is on paper and is demonstrated by the fact that a significant number of parliamentary seats are reserved for women, representatives of youth, workers and people with disabilities, as well as for the Uganda People's Defence Force. One indicator of efforts to enhance the representational role of Parliament is that the number of District Women representatives has been increasing.

However, certain social and traditional norms and practices have prevented the implementation of some of the laws that support equity in participation:

- The continued existence of gender discriminatory laws and the slow pace of much-needed legislation to address the root causes of violence against women and children impede the attainment of gender equality. Gender inequality and the lack of respect for the rights of all human beings, regardless of sex, are both a cause and consequence of poverty and low educational attainment.
- A gender analysis of Uganda National Household Survey (UNHS 1992-2003) data indicates that higher proportions of women-headed households are chronically poor and move into poverty. Gender inequality is perceived as one of the key contributing factors to the slow progress of the attainment of critical MDGs, including the reduction of maternal and child mortality, reduction in HIV&AIDS prevalence and gender parity in education. Factors contributing to gender-based violence include traditional cultural practices, poverty, insecurity, alcohol abuse, and lack of information and rights awareness.
- Female access to higher education, property ownership and decision-making is still inequitable. There are also significant differences between men and women's access to productive resources and economic opportunities, contributing to feminization of poverty.

Although there are some notable positive outcomes with respect to current gender-mainstreaming efforts in Uganda (e.g. women's representation in decision-making is increasing - with women account for 24 percent of cabinet members and 31 percent of parliamentarians - women are highly under-represented in senior positions in government (17 percent of such positions held by women as against 83 percent by men). It should be noted therefore that although most of the policies, laws and standards relating to equity are up-to-date, there are challenges in ensuring their effective implementation and enforcement.

1.7. National Programmes focusing on Vulnerable and the Disadvantaged groups/Areas

Northern Uganda is still among the disadvantaged areas of Uganda following the 21 years of conflict, death, destruction and suffering. Although peace currently prevails throughout the country, recovery and

²¹ UBOS, 2010. The Uganda National Household Survey 2009/2010.

development (through the Peace, Recovery and Development Plan – PRDP, 2007-2010, within the PEAP) has not adequately addressed the large inequities in the distribution of income, wealth and access to services in these areas.

There is a national policy on durable solutions for internally displaced persons (IDPs), which recognizes three alternatives for ending displacement: (i) voluntary return to place of habitual residence; (ii) voluntary relocation to another part of the country; and (iii) local integration in areas in which IDPs take refuge. Already nearly over million IDPs have returned to their areas of origin but many lack access to safe water, schooling and health care, hence women, children, the elderly and disabled still need support to re-build sustainable livelihoods.

In support of the PRDP, and the government's delivery of services to the vulnerable populations of the north, the UN, in close collaboration with partners, developed a Peace-Building and Recovery Assistance Plan (UNPRAP), 2009-2011, a common strategy of UN support to activities for transition from humanitarian relief to recovery and long-term development in Northern Uganda. The UNPRAP is aimed at aligning UN interventions with the PRDP and other government frameworks for northern Uganda, as well as facilitating the UN system's goal to "deliver as one" in Uganda. The planned results in the UNPRAP and UNDAF also support the Karamoja Integrated Disarmament and Development Programme (KIDDP) 2007-2010, whose implementation began in 2008. The KIDDP is a medium-term framework harmonizing the various interventions by the Government and its development partners in the North-Eastern region.

The second disadvantaged are in Uganda is the North-Eastern Karamoja area of the country, where according to the UNDP Human Poverty Index, over 80% of the population live below the poverty line and experience the highest levels of deprivation in the country. The situation is further exacerbated by prolonged dry spells which have further deepened the vulnerability of the population of the region, threatening livelihoods and resulting in poor nutrition and hunger. There is a low level of service provision, frequency of raids, attacks and other criminal activities, which compromise the health, education and protection status of the population, particularly women and children.

A review of district annual reports confirms national efforts by districts to undertake gender and equity considerations through provision of support to women and vulnerable groups. Some of the vulnerable groups identified are the people affected from HIV/AIDS. The National Development Plan (2010/11 – 2014/15) identifies HIV/AIDS epidemic as a development challenge that has disproportionately affected all sectors of development and that continues to burden the countries health and social systems, therefore undermining the countries capacity to reduce poverty and income inequalities. MWE developed an HIV/AIDS strategy in 2005 (2005-2010) to guide HIV/AIDS main-streaming efforts in the sector. This strategy 2005-2010 was reviewed during FY 2014/15 and provides a strategic direction for implementation of sector HIV/AIDS mainstreaming initiatives in all departments and stakeholder institutions in the public and sector as well as the civil society organizations.

Key implementation challenges identified include inadequate technical capacity, inadequate funding, and lack of sector specific training manuals on HIV/AIDS. It is recommended that the sector develops sector specific trainer's manuals on HIV/AIDS to guide mainstreaming efforts in districts. It should be noted that for these group of vulnerable populations adequate water and sanitation should be provided in line with the global standards (for water 50 litres per person per day). This will be discussed under Chapter 3 on standards for water quantity.

1.8. National Planning, Coordination and Monitoring for Progressive Realization

Progressive realization of safe water and sanitation is engrained in a number of the Government of Uganda's national development plans and regional commitments and is a demonstration of Uganda's conscious effort and interest to universal access to safe water and sanitation. This sub-section explores how national development planning, implementation and monitoring structures and processes are reinforcing the realization of HRWS. More specifically, the Uganda Vision 2040 approved by Cabinet in 2007 and launched in April 2013, which considers water resources (infrastructure and services) as one of the fundamentals of the country's economy is discussed. This sub-section will also elaborates the relevance of the National Development Plans in implementing this vision. The coordination and monitoring mechanisms

that the government has defined and which are of relevance to the water and environment sector are also presented here.

1.8.1. The Uganda Vision 2040

The Uganda Vision 2040 has elements that elaborate access, participation, sustainable use of water for present and future generations. On universal access to safe water (under paragraph 171) the government commits to *improve the health, sanitation, hygiene, promote commercial and low consumption industrial setups, Government will construct and extend piped water supply and sanitation systems to all parts of the country. Bulk water treatment and supply systems that cover significant areas will be promoted* (pg 65).

A number of paragraphs (269, 270, 271 and 272) focus on access to water and sanitation confirming that all Ugandans will have access to safe piped water and a modern toilet facility. Some of the steps to achieve this vision involve government partnerships with private sector to promote planned movement of people from scattered rural to planned settlements to ease delivery of utilities and services. In terms of reflecting coverage figures, the Vision 2040 confirms the gaps in access that currently exist highlighting that:

- 82% of the population in Uganda use sanitation facilities with no hand-washing facilities – only 8% have hand-washing facilities with water and soap;
- rural-urban differentials with urban households travelling 0.2 km to the main source of water compared to rural areas 0.8 km;
- only 15% access tapped water although access to improved water source has improved.

It is confirmed that the extension of piped water supply system will take into consideration the urbanization strategy that government of Uganda is promoting over the Vision 2040 period.

It is not clear, however, in this presentation how the plan under paragraph 172 to generate affordable electricity by utilizing various rivers will respond to protection of water catchments to ensure adequate water to meet the human right to safe water especially for domestic and personal uses. The mitigation measures mentioned are *especially for protection of water catchments, to ensure that the water resources are sufficient to produce the power.*

Under Paragraph 173, the government will promote commercial agriculture and indicates that it will *sustainably use water resources* for irrigation, livestock watering, fisheries and aqua-culture. Bulk water transfer systems will be built to cover long distances and large areas to provide water for multi-purpose use. It is highlighted that local scale shortages will be mitigated through large and medium water reservoirs being developed. The Uganda Vision 2040 further reports that analysis shows that even with full exploitation of irrigation potential only 14.1% of internal renewable water resources will be utilized.

In line with Uganda's commitment to the Rio Declaration on Environment and Development; the Programme for the Further Implementation of Agenda 21; and the Plan of Implementation of the World Summit for Sustainable Development, Uganda Vision 2040 commits to taking urgent measures to protect the environment and natural resources to ensure their future sustainability.

Although the Environment and natural resources (ENR) sub-sector has in the past three decades put in place legal, policy frameworks in place the level of compliance to these policies, strategies, standards and regulation is still very low leading to misuse and degradation of the environment.

In addition, it is foreseen that the concept of green economy in the context of sustainable development and poverty reduction, will be an important tool for achieving sustainable utilization of ENR sector in Uganda, (paragraph 294).

With respect to Climate change, Uganda is a signatory of the United Nations Framework Convention on Climate Change (UNFCCC) and ratified the Kyoto Protocol and is privy to a number of Multilateral Environmental Agreements (MEAs) that have strong links to climate change. Uganda has various national plans and policies supporting climate change sub-sector. However, there is poor understanding of climate change and variability in Uganda hence inadequate adaptation and mitigation measures are in place.

There is inadequate attention given to climate change by all stakeholders (state and non-state actors) including private sector, civil society and the community. Knowledge and information sharing on climate

change and variability with various stakeholders seems like a good starting point. In addition, coordination between national and local levels; capacity strengthening of local governments and decision-making bodies as well as enabling strategies and legal instruments are required. The above-mentioned cannot be realized without strengthened partnership arrangements and targeted funding for climate change initiatives as well as tapping into global climate change funding mechanisms.

There is further confirmation in this development vision that the government will ensure optimal sustainable utilization of water resources through *strengthening and managing water resources at the lowest appropriate levels at the water management zones and water catchment zones* – thus promoting the principle of participation.

To promote participation in sustainable Environment and Natural Resources (ENR), proposed measures in Uganda Vision 2040 include the inclusion of the role of private sector, civil society and women and detailed as follows:

- Working with private sector to improve and promote restoration of forest cover of the total land area to 24% ; implementation of catchment-based systems; protection of wetlands; monitoring and supervising restoration of ecosystems; creation of effective international partnerships and cooperation on environmental sustainability;
- Promoting the role of civil society in ensuring protection and safeguarding the environment is highlighted and confirmation that government will improve the participation of civil society organizations (CSOs) in ENR management by strengthening access to information; building CSO capacities and creating the enabling environment for their participation.
- Promoting the participation of women in managing ENR through gender equality and women`s participation in development and implementation of policies, programmes and decision-making at all levels.

The government equally confirms that water for industrial purposes, particularly for nuclear and oil, will adhere to water cooling standards. To ensure sustainability, the government also commits to putting infrastructure in place for water re-use, (paragraph 176). Water use efficiency, water recycling and water re-use are among the measures that will be undertaken to ensure optimal use of the water resource especially in the design of all future water supply systems. This calls for strategies being put in place as well as design of appropriate technology. The concept of virtual water and water footprint will be considered during this vision period.

It is clear from the Uganda Vision 2040 that the government is clear on the issues on prioritization of water for domestic use; promoting universal access to safe water, sanitation and hygiene; broad participation at all levels including the participation of the civil society, the private sector, women; and sustainability particularly highlighting the linkages across sectors and in protection of the environment.

1.8.2. National Development Planning

To support effective planning, implementation and monitoring, there are a number of Government-led structures in place that have a significant bearing on the sectors (including on water and environment) in Uganda including the National Development Plan (NDP) and National Planning Authority.

Increasing access to quality social services is one of eight objectives of the NDP, with quality social services interventions being mentioned as necessary for individuals and communities to realize their rights to health, food and nutrition, *water and sanitation*, education, shelter, protection and HIV&AIDS prevention, care and treatment. These rights are enshrined in the Charter of the United Nations, the Declaration of Human Rights and other international agreements, to which Uganda is a party.

Currently, promotive, protective and transformative social services and protection for Ugandan people, especially the most vulnerable, are fragmented and inequitable in both access and quality.

The importance of the water, sanitation and environment sectors is clearly recognized by Government of Uganda and water features prominently in its National Development Plan (2010-2015) NDP1, and in the

recent NDP II, (2015/15 – 2019/20) with emphasis on water for production, water for domestic consumption and water resources management and climate change.

Increasing access to quality social services is one of eight objectives of the NDP: The second NDP (NDP II)'s main objective is to increase access to safe water supply in rural areas from the current 65 per cent to 79 per cent by 2020, in urban areas from 70 per cent to 95 per cent by 2020, while sanitation coverage is to improve from 69 per cent to 90 per cent for rural and 77 per cent to 100 per cent for urban. In water for production the NDP2 target is to increase access in the cattle corridor from the current 50 per cent to 70 per cent and those outside the cattle corridor from 20 per cent to 30 per cent.

The role of different national government institutions that address planning across all sectors was reviewed and in particular that of the *Ministry of Finance, Planning and Economic Development (MOFPED)*, the office of the Prime Minister and other key ministries who take the lead role in the development of policies and strategies, standards setting, human resource strengthening, capacity building, budget allocation, behaviour change communication for development, quality assurance, emergency preparedness and response, and assuring political commitment to the implementation processes in the sectors. MOFPED's mandate cuts across all sectors of Government in the formulation of sound economic and fiscal policies, mobilization of resources for the implementation of government programmes, and ensuring all public resources are disbursed as appropriated by Parliament and accounted for in accordance with national laws and international best practice. MOFPED is reported to have strengthened consultative processes with other government ministries, local governments, agencies, development partners, the private sector, the media, the academia, and civil society organizations although challenges exist with respect to budget deficits and pressures and sustaining macro-economic stability while at the same time making adequate investments for poverty eradication in the country.

In the MOFPED National Budget Framework Paper (NBFP) Financial Year - NBFP FY 2015/16, the sector contribution to NDP2 is viewed through three broad sector outcomes with indicators, the baseline, targets and medium-term forecast. In this NBFP, for the Water and Environment Sector, a consolidation of three votes is provided: Ministry of Water and Environment (Central Vote 019); the National Environment Management Authority (Vote 150); and the National Forestry Authority (Vote 157) as well as highlights of the budget supporting decentralized activities for which the centre disburses grants to districts i.e. Rural Water Supply and Sanitation Development Conditional Grant, Urban Water O&M grant and the Natural Resources Grant specifically for wetlands management.

The Government has reported on the activities undertaken and the planned outputs for the current financial year. There is a clear demonstration of government planning towards progressive realization of access to water and sanitation. The NYFP FY15/16 defines the following objectives in order to meet the medium outputs and resources allocation which include (Objective 1), *to provide safe water within easy reach and hygienic sanitation facilities, based on management responsibility and ownership by users, to 77% of the population in rural areas and 100% of the urban population by the year 2015 with an 80%-90% effective use and functionality of facilities.*

1.8.3. Coordination

Uganda has an elaborate architecture for coordinating development assistance. Political and strategic discussions are conducted in the Partners for Democracy Group (PDG) consisting of Heads of Missions (HoMs). These meetings are supported by three working groups on *i) democracy, ii) human rights and iii) accountability*. On the development side sector working groups are set up under the auspices of the Ministry of Finance in line with the structures of the MTEF whilst harmonization is addressed by a number of partner groups overseen by the *Local Development Partner Group*. Where institutions are supported directly, the interventions are still highly coordinated with other development partners not least through a number of working groups. The establishment of the Democratic Governance Facility (DGF) is a way to advance harmonization considerably. It also links up to the working groups under PDG and hence enhances the coherence between the political dialogue and the development support.

The water and environment sector of the MWE has established mechanisms through which it reduces costly fragmentation of aid: for instance the UN participates in donor working groups; there is increased joint sector programming and programme; and agreed divisions of labour.

i) *Coordination of the United Nations agencies*

It is important to note the important role that the United Nations plays in Uganda with respect to supporting the establishment of norms and standards in accordance with international conventions, treaties, UN General Assembly guidelines and Security Council resolutions. This is in line with the United Nations Charter that has set forth the purposes of the system as promoting respect for human rights and supporting coordination of socio-economic development initiatives.

Accordingly, UN Funds, Programmes and Agencies in Uganda have a mechanism for pursuing international commitments and agreements, in line with their shared and distinctive mandated areas. One such mechanism is the United Nations Development Assistance Framework (UNDAF) 2010-2014, designed to support the principles embodied in the Paris Declaration and the subsequent Accra Agenda for Action and is aligned with the objectives of the National Development Plan I (2010-2014) and the NDP II (2016- 2018). The UNDAF framework highlights three relevant broad UNDAF Outcome Areas and corresponding agency outcomes and outputs, which includes the outcome area (i) on Governance and Human Rights.

In terms of focusing on vulnerable groups, UNDAF reflects the national scope of the UN System in Uganda through six special areas of focus which are mainstreamed and highlighted:

- i) Northern Uganda, a region that needs special attention to attain the national average in human development indicators and then meet the MDG targets;
- ii) human rights, which have improved but many challenges remain in the area of economic, social and cultural rights, especially of the most vulnerable groups of the population;
- iii) gender discrimination against women in all spheres of life;
- iv) the environment, for which the Government of Uganda has put in place strategies and plans to promote sound environmental management, but the quality of the environment continues to decline;
- v) population, for which there is a growing realization of the importance of population in development; and
- vi) HIV & AIDS that its pandemic continues to have deep, negative socio-economic repercussions.

The UNDAF coordinating mechanism is being mentioned here particularly because the special areas mentioned above capture strong aspects of the human rights framework especially promoting the normative principle of *Non-Discrimination*. It should in fact be noted that even the actual process of establishing the UNDAF has evidence of strong elements of human rights framework: the Task Force assigned to write the UNDAF and results matrices was trained in the human rights approach, gender mainstreaming, results-based planning, and in joint programming; *participation* is realized in the process of consultations in establishing the UNDAF which engages the government, NGO, bilateral donor and civil society stakeholders; *accountability* through audits were carried out to ensure that human rights, environment, gender and HIV&AIDS were sufficiently highlighted throughout the UNDAF and the *Monitoring and Evaluation matrix* is reviewed by the UNDAF Monitoring and Evaluation team and external advisors. The audit recommendations produced by OHCHR for human rights, UNIFEM for gender, UNEP for environment, UNAIDS for HIV&AIDS and by the M&E team and advisors, were addressed by the three Technical Working Groups and the Steering Committee.

In terms of influencing policy, the UNDAF demonstrates support in a number of other Government policies, strategies and action plans, for instance, (i) the Decentralization Plan, whose aim is to support the implementation of the Government's national strategies at the district level while promoting the participation of citizens and local communities; (ii) the Water Supply and Sanitation Sector Investment Plan 2009-2014; (iii) Health Sector Strategic Plan 2009/10-2014/15; and (iv) the Justice Law and Order Sector Strategic Investment Plan 2006-2011. These efforts are geared towards supporting the achievement of the national development plan priorities with focus on Equity and Inclusion, Peace and Recovery, Population Dynamics and Sustainable Growth. The UNDAF coordination mechanism therefore builds the government's

capacity for *accountability*, and the UN in turn will manage for results, and be accountable and transparent in reporting on results.

ii) Donor coordination

Donor coordination with respect to water and sanitation in Uganda is described as good, with monthly meetings held to exchange knowledge and foster a common approach to government. The Water and Environment Sector Working Group (WESWG) enables dialogue and exchange between the MWE, donors, nongovernmental organizations (NGOs) and other related ministries. Since 2008, leading development partners in the water sector – Denmark, Germany, Austria, EU and African Development Bank (this list is not exhaustive) - have supported the Government through a joint programme - the Joint Water and Environment Sector Support Programme (JWESSP) 2013 – 2018, which comprises a holistic support towards the entire sector.

This framework offers a harmonized and aligned support with strong accountability and ownership by Government. The Joint Water and Environment Sector Support Programme has been developed by Uganda’s Ministry of Water and Environment and the water and environment sector development partners for the period July 2013 to June 2018. It focuses on supply of safe water to the rural and urban populations, water for productive – agricultural use as well as sustainable management and protection of Uganda’s water resources. The programme is fully aligned to the goals and targets of the National Development Plan. Within the JWESSP, support such as from the Danish focuses on the right to safe water for rural Ugandans.

iii) NGO coordination

There is increasing recognition of the role civil society in sector performance by the Government of Uganda. At the local levels in particular, NGOs and Community based organization (CBOs) already play an important role in implementing Water and Sanitation schemes and in assisting and encouraging communities to assume responsibility for Operation and Maintenance.

Currently, in the water sub-sector, an umbrella organization is formed - the Uganda Water and Sanitation Network (UWASNET) with about 235 NGOs and CBOs registered. In terms of contribution to WASH sector (SPR 2014 p.10) CSOs total investment increased from UGX 32.4 billion to 37.83 billion of which 59 was investment in water supply compared to 79% in the previous financial year; 30% was invested in sanitation (from 14%); 9% in community management; and 1% in Integrated Water Resources Management (IWRM). At the level of accelerating accessibility therefore, CSOs have contributed to providing access to safe water (mainly rain-water jars equivalent to 1120; 812 rainwater tanks; 474 boreholes; 444 shallow boreholes; 237 tap stand and kiosks; and 67 protected springs) while at the same time reducing time and distance to water sources. It is reported that on average the capital costs for new water sources by CSOs has decreased from UGX 75,806 to UGX 57,765. The draft SPR 2015 reports that in the FY 2014/2015, CSOs made a total contribution of UGX 49.30 billion (an increase from UGX 37.83 billion in the previous FY) in WASH activities related to community management, water for production and integrated water resources management.

All NGOs and CBOs engaged in development activities within a district are expected to share their program activity plans and budgets with the Local Government Authority for purposes of harmonization of such program activities into the broader sectoral or area development plans and resource estimates. According to the National NGO Policy 2010, the Chief Administrative Officer (CAO) is responsible for providing the guidelines to facilitate this process²². The responsibility for monitoring of NGO sector activities are supposed to be shared between the key State Ministries and Agencies namely OPM, relevant line ministries, the NGO Board and Local Government Authorities on the one hand, and NGO actors at national and local level, on the other.

UWASNET has shown active engagement in issues promotive equity, good governance and direct support for the implementation of the human right to Water and Sanitation in Uganda. In 2012, UWASNET published a manual – “The Right to Water Manual and Trainers Guide” intended to promote previous and ongoing efforts in the implementation and realization of the right to water and sanitation in Uganda. The manual defines the right to water in practice, presents the legal and institutional frame work that allows for the

²² National NGO Policy 2010, p. 31.

recognition of this right, spells out the roles that the various stakeholders should play in the realization of this right and isolates and dispels myths that surround the true meaning of human right to water and sanitation. This manual is a useful guide that will support civil society and other professionals who are keen on understanding and implementing the service delivery of the human right to water and sanitation. It provides the basis for practical reforms in many areas of water supply and sanitation and in water resource management, that can enable the sub-sector sector to cater for the needs of the most affected in Uganda.

For the environment and natural resources sector, ENR-CSOs are organized under a network hosted by Environment Alert i.e. the ENR-CSO Network with a membership of 151 organizations with increased engagement in Mid-Western and Northern Uganda. Every Financial Year since 2009, CSOs in the environment and natural resources sub-sector have been developing performance assessment reports to demonstrate their investment and contribution to the development of the sector; in the FY 2013/2014 48 NGOs reported for the sector performance report - contributing financing to the ENR sub-sector \$ 6.5 million.

Additionally, the ENR-CSOs demonstrate active engagement in influencing the policy and institutional frameworks governing the ENR sub-sector - with Environmental Management for Livelihood Improvement (EMLI) taking the lead, ENR-CSOs participated in the review process for the National Environment Management Policy and the development of the National Development Plan (Phase II). The plea has been for government to strengthen institutional collaborations and clarification of roles and mandates among ENR sector institutions. Other key contributions include their support to the development and finalization of Wetlands Management Action Plans, with specific reference to the Management Plans for Torchi and Okole wetlands that span through the districts of Oyam, Apac, Kole and Gulu.

iv) Private sector coordination

Both civil society and private sector organizations play a vital role with respect to human resource strengthening service delivery, community mobilization, institution strengthening and capacity building, resource mobilization and advocacy. For WSS sub-sector, private water suppliers, the majority coordinated through the Association of Private Water Operators (APWO), manage piped water services in small towns and rural growth centres. Private sector firms further undertake design and construction in water supply and sanitation under contract to local and central Government, while private hand-pump mechanics and scheme attendants provide maintenance services to water users in rural and peri-urban areas.

In the ENR sub-sector, the Private Forest Owners including Local Communities with registered forests are legal forest management authorities. In addition, the private sector plays an important role in terms of commercial tree plantation development as well as promoting wood based industries and trade.

1.9. Financing the National Policy Implementation

The Government of Uganda's key instrument through which implementation of policies is undertaken is the National Budget and the National Development Plan (NDP) guides overall resource allocation. The National Budget Framework Paper (BFP) provides the link between Government's overall policies and the Annual Budget. It lays out the fiscal policy framework and strategy for the budget year and in the medium term setting out how the Government intends to achieve its policy objectives over the medium term through the budget. The macroeconomic framework presented in the BFP forms the basis for resource projections and indicative expenditure allocations. It also forms the basis for the detailed estimates of revenue and expenditure which will be laid before Parliament.

The annual national planning process is consultative and involves all levels of government. It leads to the finalization of the **Medium-Term Expenditure Framework (MTEF)**. Although the MTEF includes projections for the next three years, past experience shows that actual allocation tends to be lower than the projections.

The National Budget Framework Paper outlines Government interventions for Social and Economic Development in FY 2015/16 and the medium term in line with Government's Macroeconomic Plan and Fiscal strategy and the National Development Plan (NDP). The NDP lays out the Government strategic five-year plan. Given that the Budget for FY2015/16 marks the first year of implementation of the NDPII, it is

imperative that all sector priorities be geared towards achieving the objectives of the proposed NDP FY 2015/16 – FY 2019/20. The macroeconomic framework presented in the BFP forms the basis for resource projections and indicative expenditure allocations.

The objectives which guide medium term outputs and resource allocations are defined in the National Budget Framework paper for the water and environment sector as follows:

- a) To provide safe water within easy reach and hygienic sanitation facilities, based on management responsibility and ownership by users, to 77% of the population in rural areas and 100% of the urban population by the year 2015 with an 80%-90% effective use and functionality of facilities;
- b) To provide viable urban water supply and sewerage/sanitation Systems for domestic, industrial and commercial uses;
- c) To develop water supply for production/multi-purpose use for socio-economic development, modernize agriculture and mitigate effects of climatic change.
- d) To promote coordinated, integrated and sustainable water resources management activities to ensure balanced conservation of water resources and provision of water of adequate quantity and quality for all social and economic activities.
- e) To empower communities to sustainably harness/Use Natural Resources.
- f) To attain and maintain a clean, healthy and productive environment.
- g) To increase the productivity of the natural resources base.

As part of the government's medium term responses to the low coverage levels of sanitation, this NBFP confirms the commitment to raise sanitation coverage to 72% (JAF matrix commitment) in the medium term through promotional campaigns at all levels, provision of new and rehabilitation of existing sanitation/sewerage facilities to reach the un-served population. Overall, the water and environment sector allocation is confirmed to be declining over the past couple of Medium Term Expenditure Frameworks (MTEFs) and this has affected the volume of outputs that can be achieved by the sector. One of the most significant features of this NBFP however, is the inclusion of a comprehensive section detailing proposals for request of additional funding, which has reference to the given Unit Costs of service delivery, the National Development Plan, respective Investment Plans among others and includes the H.E the President's directives/pledges.

i) Financing Sectors

Water and Environment is one of the 16 sectors that the Government of Uganda prepares Sector plans and expenditures as presented in the current NBFP FY 2015/16. The NBFP FY 2015/16 confirms:

The prominence of water and sanitation was raised with the establishment of the **Poverty Eradication Action Plan (PEAP) in 1997**, coupled with debt relief and a **Poverty Action Fund (PAF)**. Reform studies led to the development of **Strategic Investment Plans (SIPs)** with appropriate policies, strategies, action areas, and associated costs.²³

In the Water and Sanitation sector, Government interventions have sought to increase access to safe and adequate water for human consumption and water for production; as well as the construction of sanitation facilities in urban and rural growth centres. This has been done through rehabilitation, expansion and construction of piped water schemes, borehole drilling, gravity flow schemes and sewerage facilities in urban centres, among others, (pg 27).

For both 2014/15 and 2015/16, the Government national allocation to water and environment sectors has been 3% amounting to UGX billion 420.5 and 424.4 respectively.

In terms of roles and responsibilities, the Ministry of Finance, Planning and Economic Development (MOFPED) is responsible for mobilizing funds, allocates them to sectors and coordinates donor inputs. The Ministry reviews sector plans as a basis for releasing allocated funds, and reports on compliance with sector objectives. On the other hand, the Local Governments (LGs) responsible for implementing the rural water

²³ AMCOW CSO Report 2009/10.

supply and sanitation plus the water for production – with the funds flowing directly from MOFPED. In addition LGs are responsible for implementation and Operation and Maintenance (O and M) with the users/customers, with whom they closely cooperate.

ii) Fiscal Decentralization

The Constitution (Article 191 -193) also lays out an elaborate framework to finance LGs responsibilities for delivering services through a combination of sources but primarily through raising own revenues and using grants transferred from Central Government. The grants are established through the national annual budgeting process and are transferred from the national budget using the release system set-up by MoFPED to each LG for purpose of financing services. In recent years, Central Government began transferring financing directly to beneficiaries through direct payments. Accounting mechanisms requiring service delivery units to report to LGs and in turn, LGs to report Central Government on expenditures under these grants, have been established.

In 2002, Government rolled out a series of fiscal reforms to improve harmony between the national and Local Government budget cycle and strengthen financial accountability mechanisms and reporting under the FDS.

The decentralization of frontline basic services, (including, delivering water and sanitation) development to local government was intended to bring them closer to the people for whom they are intended and to improve their programming, delivery and reporting as provided under the Second Schedule of the Local Governments Act (LGA) (Cap243). In implementing these mandates, LGs have responsibilities for planning, budgeting, supervising and accounting for implementation of these services. Many services are also undertaken in collaboration with local communities.

Although Uganda has a decentralized system of governance with several functions having been ceded to the local governments, the central government retains the role of formulating policy, setting and supervising standards, and providing national security. As a result of the decentralization policy, numerous improvements have been realized in governance through democratic participation and community involvement, empowering local communities to manage their affairs.

Whereas the legal and institutional framework for financing and delivery of the decentralized services is laid down under the Constitution and the Local Government Act, local governments have continued to face significant challenges in service delivery. These include the limited and diminishing local revenue, over-reliance on conditional grants transfers from the central government and weak public service delivery, among others. To address these challenges, Government has embarked on the process of reviewing the current Fiscal Decentralization System.

iii) National Financing Arrangements and Capacity Strengthening for the Water and Environment Sector

The Government of Uganda (GoU) has developed a Sector Investment Model (SIM) and a Strategic Sector Investment Plan (SSIP).

- For sanitation public investments are limited to sewerage, sanitation in public places, and activities to build up the demand, supply, and enabling environment for Improved Sanitation and Hygiene (ISH).
- In the case of water supply, the construction of facilities is primarily paid for by the public sector with operation and maintenance (O&M) costs mainly covered by user fees.

The public investment requirements set out in the SSIP may be on the low side, as it is assumed that users will pay for O&M. Although this is in line with national policy, the practice is not always adhered to. In addition, some of the piped water supplies in urban areas and small rural towns are not able to meet their running costs, suggesting that subsidies may be necessary in some instances, while efforts are made to improve efficiency and cost recovery. The assumed technology mix for rural water supplies in the SSIP

places high emphasis on piped water supplies (50 percent by 2015), which has major implications on the per capita investment costs, as well as on future O&M.²⁴

The SSIP is accompanied by a detailed Strategic Sector Investment Model which provides estimates of the investment needs according to sector and subsector targets and is linked to the MWE's geographic information system. The SSIP is that it does not include investment requirements for sanitation and hygiene promotion and capacity building as these are beyond the mandate of the MWE. These costs are covered in the **Integrated Sanitation and Hygiene Finance Strategy**, which is still to be fully operationalized. There is an expectation of substantial investments in sanitation by households in both rural and urban areas.

At the national level, MWE operates with funding from GoU and donors for central implementation, whereby generated revenue, for instance through issuing of permits, is remitted to the Treasury. The National Forestry Authority (NFA), National Water and Sewerage Corporation (NWSC), National Environmental Management Authority (NEMA) and Uganda National Meteorological Authority (UNMA) operate with funding from GoU and internally generated revenue.

More broadly within MWE, efforts to improve water and sanitation have taken place in the context of broad institutional and economic reforms, including a shift from projects to a **Sector-Wide Approach (SWAp) to planning**; construction, and in some cases management, by the private sector; a shift in the role of government from service provider to policy maker; and decentralized service delivery, particularly of rural water supplies and sanitation.

The main funding sources for MWE are:

- i) Government funding from the Treasury (comprising of both Government local resources as well as grants and loans from development partners operating under the Sector Budget support framework)
- ii) Donor funding outside SBS comes in form of project funding and basket funding
- iii) Internally generated funds which consists of revenue generated from water sales, sewerage services and environmental services to the public.

The MWE sector therefore operates through the following financing modalities: On-Budget: Sector Budget Support (SBS) and the Joint Partnership Fund (JPF); and Off-Budget namely Programme Management Support and Technical Assistance as detailed below:

- **The SBS modality** is applied for the support to rural water supply. This is considered the most effective, efficient and equitable means of delivering water supply nationwide to all 112 districts of the country. The SBS is linked to the Joint Budget Support Framework (JBSF) which enables development partners within the Budget Support Group to participate in the overall policy dialogue with Government.
- **The JPF modality** is a basket mechanism with the purpose of supporting capacity development across the Ministry structures in addition to studies, piloting of new approaches and oversight of climate change and sector performance. The mechanism is anchored in the Ministry of Water and Environment and agreed plans are formulated by Government in accordance with the Government budget cycle process and presented to and approved by the Sector Working Group. This ensures that approaches are harmonized between development partners. For some of the donors like Denmark, their contribution to the JPF is ring fenced for water supply, water resources and climate change activities, with support for sector programme and capacity strengthening covering all the sub-sectors.

The decentralised implementation at district level is achieved through **Conditional Grants** namely the:

- i) District Water and Sanitation Development Conditional Grant (DWSDCG);
- ii) Sanitation Grant;
- iii) District Environment and Natural Resource (Wetlands) Conditional Grant; and

²⁴ AMCOW CSO Report 2009/10.

iv) Urban Water Supply O&M Conditional Grant.

The CSOs largely operate with Off-budget funds provided by development partners or through private donations.

Beyond the water and sanitation sector, the National Partnership Forum provides development partners (DPs) and the Government of Uganda (GoU) a formal dialogue process. Prior to this the **Joint Budget Support Framework /Joint Assessment Framework** were in place (and discontinued in 2014) to trigger earmarked and general budget support disbursements with committees and working groups for coordination and dialogue established at national and district government levels.

The NDP expenditure framework allocates an average of 4.1 percent of the national budget to water and environment, corresponding to around US\$220 million. This incorporates funds for the environment and natural resources as well as for water supply and sanitation. The budget allocation is declining; it is also not yet clear the extent to which these figures will actually be used in the preparation of the MTEF, which has an allocation of around US\$51 million per year for water and sanitation for the next three years.

These amounts are set in relation to sector ceilings, which means that even if donors were to increase funds to the sector, these would be offset by a reduction in government funding. For some time it has been argued that the sector ceiling for water and sanitation is too low to allow investments to keep up with population growth. However, with government priorities in the short- and medium-term on roads, energy, schools, and water for production, the ceiling for water and sanitation has not been raised significantly. The MWE and other key players face the challenge of making a strong case for further investment by demonstrating the impact of investments in the sector, in social and economic terms.

There was no available published information on overall criteria for allocation of budgets between rural and urban areas. However, within the rural context a clear allocation criteria is defined to determine funding to each district local government. For urban no allocation criteria for construction of urban town systems was available for review and Most of the urban water supply investment are handled through regional Water and Sanitation Development Facilities (WSDF). In the case of small towns, criteria with respect to finance for maintenance and expansion is published. Allocation criteria for sanitation is currently not feasible given the fragmentation of mandates and lack of a distinct budget line.

At the national and local government levels, budget codes enable rural and urban expenditure to be disaggregated. However, water and sanitation expenditure cannot be separated for the MWE or district local governments. In the case of rural sanitation, however, planning, funding, and implementation are still highly fragmented. There are no subsidies for rural domestic sanitation in Uganda, which relies on a carrot and stick approach of sanitation promotion coupled with enforcement. A dedicated budget line for sanitation has been created but no funds are in place, and discussions as to which ministry should oversee the budget line are ongoing under the leadership of the Office of the Prime Minister (OPM).

In addition, the details of expenditure on sanitation by the MOH are not published, thus not possible to relate public expenditure on sanitation to outcomes. Details of expenditure on sewerage in each town by the MWE are published, but this is not the case for subsequent O&M spending. (See, AMCOW CSO 2009/10)

Under the SWAP, most government funding for rural water supply and sanitation investments is transferred to the GoU consolidated fund and then remitted to the district local governments as the District Water and Sanitation Development Conditional Grant. The *Allocation Formula* for the district water and sanitation development conditional grant was reviewed during the FR 2013/2014 as was previously recommended in the Joint Sector Review (JSR), to ensure that the grant to the districts local government is appropriated on the principle of equity and coverage at sub-county level. The Allocation Formula takes into consideration population, investment costs of the appropriate technology and the water supply coverage at sub-county level within the district.

In terms of promoting equity, the allocation formula is one of the financing mechanism designed to ensure that the underserved sub-counties catch up with the national service average. However, there are

challenges in implementing this formula: According to the SPR, 2015, the rural water and sanitation department has not yet implemented the allocation formula with the argument that the formula brings out drastic changes in the current allocations. The department anticipates numerous complaints from the districts especially whose grant will reduce drastically.

At the same time, there is need to ensure that districts whose grant will increase by the implementation of the new formula are equipped with the relevant resource to absorb the increased income. To effectively implement this allocation formula, there is a foreseen need to prepare the districts for the changes, and developing new guidelines to match the changes. The department is into negotiations with the districts and has carried out trainings and awareness workshops for the same, to balance the districts' expectations with the results of the formula, (SPR, 2015 pg. 223).

Challenges related to sector financial mechanisms

A number of challenges are highlighted in different sector documents which relate to budget governance between central and district/local levels; inadequate sector financing; and expansion of administrative units which leads to inadequate distribution of resources and lack of capacities:

1) Fiduciary and governance risks particularly relating to flow of funds between central, regional and district level as well as procurement.

- Following the 2012 scandal involving mismanagement of funds provided to the Office of the Prime Minister, Government has introduced a range of strengthened measures to control funding flows and close identified loopholes.
- A comprehensive Fiduciary Risk Assessment/Funding Options Analysis clearly recommended maintaining SBS as main modality for support to rural water supply, but with strengthened safeguards.
- Mitigation efforts include strengthening monitoring of 1) outcomes/outputs in terms of whether sector targets are met, 2) actions/processes including conducting technical/procurement/value for money audits and monitor follow up on annual audit findings as well as 3) the input/funding issues to closely follow the flow and level of funds from Denmark to districts, development in unit costs etc.

2) Decreasing and inadequate sector funding which jeopardizes already made achievements and attainment of agreed sector targets.

- This is aggravated by the high population growth and creation of new districts.
- Mitigation efforts will include ensuring greater efficiency in the sector through capacity building combined with high level dialogue with Government within the Joint Budget Support Framework as well as at sector level

3) Increasing number of districts leads to a fragmentation of the district capacities and human resource constraints.

- Currently there are 112 districts. The President has recently announced a temporary stop to creation of additionally 23 districts planned.
- Creation of new districts affects establishment of water infrastructure given that a portion of the District Conditional Grants is allowed to be spent on administrative start-up costs for the water office in a new district. This matter is effectively beyond the scope of the sector; however mitigation efforts involve requiring Government counterpart funding to cater for the administrative set-up in new districts and strengthening the technical support units to reinforce their support to the water offices particularly in the newly created, often administratively weaker.

Source: JWESSP 2013-2018

It is understood that a study is on-going by GIZ and WIN on good water governance and a revised Good Governance Action Plan (GGAP) is being implemented through MWE.

For the water and environment sector, the creation of new districts affects establishment of water infrastructure given that a portion of the District Conditional Grants is allowed to be spent on administrative start-up costs for the water office in a new district. This matter is effectively beyond the scope of the sector; however mitigation efforts involve requiring Government counterpart funding to cater for the

administrative set-up in new districts and strengthening the technical support units to reinforce their support to the water offices particularly in the newly created, often administratively weaker.

Part of the Government's response to this challenge has been addressed through the following provisions: The Regional Governments Bill of 2009 Section 2(1) provides that two or more neighbouring districts may cooperate to form a regional government to perform functions and services specified in the Fifth Schedule to the Constitution of Uganda. The regional-tier concept, however, is not universally accepted. There are concerns of increasing operating costs.

In addition, outlined in the 5 year Capacity Development Strategy, 2012, is the objective for the water and environment sector aimed at building the sector capacity to increasingly meet its targets and undertake its mandate benefitting from: a better understanding of its capacity demands; more effective means of delivering capacity in response to the needs and, an increasing ability to positively influence the enabling environment.²⁵

1.10. Reporting, Monitoring & Evaluation

The Government of Uganda considers monitoring, evaluation and reporting as a key component of all national development programs. As part of the institutional set-up for the MWE, a department of Planning and Quality Assurance was established to, among other functions, carry out periodic monitoring, evaluation and quality assurance of all ministry activities including water supply and sanitation. The department issues periodic quality assurance reports highlighting the performance of the different departments in the ministry against set targets and recommendations on corrective measures to be implemented during the next reporting period. The WASH sub-sector has eleven (11) golden indicators which will subsequently be analysed in detail.

The donors/development partners and the government use the annual Joint Sector Review (JSR) forum to assess performance of the sector and enables a broad spectrum of stakeholders to gain insights into, discuss, and influence sector developments through setting priority actions/undertakings and provision of policy guidance for the water and environment sector. The JSR is guided by the SPR and a pre-determined theme originating from emerging sector policy and/or strategic issues. Any binding decisions during JSRs, such as key actions or undertakings for the forthcoming twelve months or beyond, are subject to formal endorsement by the Water & Environment Sector Working Group.

Through the JSR, the annual targets for the key sector performance indicators, agreed actions and attainment of undertakings for the previous year(s), and also formulates new undertakings to be implemented during the following year(s). The JSR supports the Joint Budget Support Framework and its Joint Assessment Framework (JAF), which is the agreed Government of Uganda and Development Partners' mechanism for constructive dialogue and agreements on provision of Budget Support. The timing of the JSR is also linked to the start of preparations for the next national budget cycle and the Medium-Term Expenditure Framework (MTEF).

To assess the technical and financial performance of the sector more detailed field visits are carried out during the technical review. Annual water sector performance reports are prepared and circulated to all stakeholders for review and information. The current reporting and monitoring framework has ensured coordinated and periodic reporting on all sector activities by the different stakeholders and has greatly improved on information flow between the central government, donors, local governments, NGOs and the private sector.²⁶

The framework also provides for periodic service delivery surveys, and specific independent surveys that are often conducted by different stakeholders. As part of this framework, the central government periodically issues policy benchmarks, national and local targets, performance indicators and monitoring and reporting guidelines and standards that have to be followed by all stakeholders in the water sector.

²⁵ The 5 year Capacity Development Strategy developed in 2012.

²⁶ WaterAid, 2011: Equity and Inclusion Analysis of the Water Sanitation and Hygiene in Uganda.

Monitoring of the WASH sector budget is done through the Public Accounts Committee, (PAC). The Committee checks to ensure that money is put to proper use by Local Governments as well. Where they feel disenfranchised, the population can also make an appeal to parliament through the LG Committee, PAC at Parliament and the Statutory Authority Committee. However, there is no evidence that the population has in the past used this avenue.

Both the national and district level government submit quarterly and annual reports and in addition, the annual report from the Auditor General is submitted to Parliament and published on the internet. For the utility, NWSC audited accounts in its annual report are published.

A national coordination mechanisms for M and E - the National Integrated Monitoring and Evaluation Strategy (NIMES) and its working groups exists. In 2013, a Management Information System (MIS) Working Group was established within MWE with membership from each department and other stakeholders in the sector (UNICEF, SNV, Triple-S, and UWASNET). The overall objective of the MIS Working Group is to speed up the integration of the various M&E systems within Directorate of Water Development (DWD) and Directorate of Water Resources Management (DWRM), and progressively the whole water sub-sector in Uganda. The MIS Working group reports to the Sector Working Group, in charge of final collection of data for the Sector Performance Report which supports the discussions in the annual Joint Sector Review.

Although there are clear structures for district level water and environment sector monitoring including capacity support from TSUs, sector analysis seems to be centralized. At District Local Government (DLG) level, there is lack of harmonized approach for collecting and collating data that is needed for better planning and targeting those groups or areas that do not have access. For instance it was confirmed from MoES that there is a backlog of data collected on schools that is waiting analysis since 2012. Without a proper database on the status of access at districts which helps to identify the vulnerable areas or schools for this instance, then planning is going to be based on obsolete data and targeting would not be effectively achieved. Most external partners seem to rely on establishing their own baselines every time there is an intervention being design. Even with such baselines, the reports are not readily available and information sharing seems to be a big blockage in planning at lower levels.

Clearly there are various national institutions which undertake monitoring and inspection of water supply services (including the Ministry of Local Government and Ministry of Finance, Planning and Economic Development, and Auditor General). The findings are not always consistent across institutions and hence consistency across these sources needs to improve, and discrepancies discussed in the Sector Performance Report. The resulting actions also need to be coordinated across institutions.



CHAPTER TWO
A HUMAN RIGHT TO WATER AND SANITATION ANALYSIS OF THE
NATIONAL LEGAL FRAMEWORK

2.1. Introduction

The right to water and sanitation has been recognized as a human right at the international level by many States and through various forums. Already in 1995, the Committee on Economic, Social and Cultural Rights recognized that water is a human right contained in article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).²⁷ General Comment No. 15, an interpretative document specifically on the right to water, was subsequently issued eight years later. In July 2010, the United Nations General Assembly reaffirmed the recognition of the right to safe and clean drinking water and sanitation as "a human right that is essential for the full enjoyment of life and all human rights".²⁸ This was further emphasized by Resolution 15/9 of the Human Rights Council in 2010.²⁹

Along with 163 other States, Uganda is party to ICESCR in addition to its adherence to other regional and international instruments which contain the right to water and sanitation either explicitly or implicitly. However, in day-to-day reality, only 19% of the population of Uganda has access to improved sanitation facilities and 24% of the population in rural areas still lack access to safe water.³⁰ Against this backdrop, the present report examines Uganda's compliance with its international obligations and commitments with regard to the right to water and sanitation. It seeks to identify the relevant obligations pertaining to this right and study how the State's national legal framework is aligned with each of the right's criteria.

This document is divided in two parts. Part I explains the international framework of the right to water and sanitation and summarises Uganda's commitments at the international and regional levels. Part II shows how the commitments found in the first part are translated into the Ugandan national legal framework. In order to see how the right to water and sanitation is encompassed within the framework, the second part is divided into three sections. The first section offers an introduction to the legal system in Uganda in relation to economic, social and cultural rights. The second and third sections further discuss the procedural guarantees applicable in relation to the right to water and sanitation and the five criteria of the right. In the last two sections, the procedural guarantees and normative content of the HRWS are first explained based on Uganda's commitments, following which the main legal framework is analysed in each sub-section.

A. Overview of the main water related national legal instruments

The following documents were systematically reviewed in relation to all criteria of the right to water and sanitation and related procedural guarantees:

- **The Constitution of the Republic of Uganda (1995)**
- **The Local Governments Act (1997)** Cap. 243
- **The Water Act (1995/1997)** Cap. 152.
- **The National Environment Act (1996)** Cap. 153
- **The Public Health Act (1935)** Cap. 281
- **The Access to Information Act (2005)** Act no. 5 of 2005
- **The National Water and Sewerage Corporation Act (1995)** Cap. 317
- **The Land Act (1998)** Cap. 227

When appropriate, the following legal documents were also considered:

- The Equal Opportunities Commission Act and Regulations;
- The Uganda Human Rights Commission Act, Cap. 24;
- The Judicial Service Act, Cap. 14;

²⁷ CESCR, General Comment No. 6: The economic, social and cultural rights of older persons, 13th Sess, 1995, U.N. Doc. E/1996/22 at 20 (1996), reprinted in 'Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies', (2003) UN Doc. HRI/GEN/1/Rev.6, paras 5 and 32 [General Comment No. 6]; *see also* CESCR, General Comment No. 15: The Right to Water, 20 January 2003, E/C/2002/11, para 3 [General Comment No. 15].

²⁸ United Nations General Assembly, *The Human Right to Water and Sanitation*, 64th Sess., 3 August 2010, A/RES/64/292.

²⁹ Human Rights Council, Human rights and access to safe drinking water and sanitation, 6 October 2010, A/HRC/RES/15/9.

³⁰ UNICEF and WHO, *Progress on Sanitation and Drinking Water - 2015 Update and MDG Assessment*. Available at: http://www.wssinfo.org/fileadmin/user_upload/resources/JMP-Update-report-2015_English.pdf.

- The Children Act, Cap. 59;
- The National Bureau of Standards Act, Cap. 327;
- The Registration of Titles Act, Cap. 230;
- The Persons with Disabilities Act, 2006;
- National Water and Sewerage Corporation, addendum to the Performance Contract IV;³¹
- Uganda Drinking (potable) water – Specification (2nd edition), US 201: 2008.

³¹ The fourth and fifth performance contracts with the National Water and Sewerage Authority were not available for evaluation.

PART I
THE RIGHT TO WATER AND SANITATION AT THE INTERNATIONAL LEVEL -
UGANDA'S COMMITMENTS AND INTERNATIONAL OBLIGATIONS



2.2.1. General overview of the right to water and sanitation at the international level

The right to water and sanitation is not explicitly listed in the Universal Declaration of Human Rights nor in the International Covenant on Economic, Social and Cultural Rights. Yet, and as explained below, it is linked to other human rights found in international instruments, such as the right to an adequate standard of living.³²

It has been suggested that a possible explanation for the non-explicit inclusion of the right to water and sanitation in these instruments is that many countries who were affected by water shortage and lack of sanitation facilities were not part of the negotiations of the universal human rights declaration because the adoption of the instrument dates back to the colonial period.³³ In addition, the exclusion of water and sanitation from the non-exhaustive list related to the right to an adequate standard of living could imply that it was assumed that “water, like air, was already freely available to all”.³⁴

Nevertheless, the right to water and sanitation is recognized as a human right. The concept of basic water requirements for meeting fundamental human needs was established in several declarations also adhered to by Uganda. An example is the 1994 International Conference on Population and Development that led to the adoption of a 20-year Programme of Action, which recognized that individuals have a right to an adequate standard of living, which includes water and sanitation.³⁵ In 2002, the Committee on Economic, Social and Cultural Rights adopted General Comment No. 15 on the right to water. The comment explains that the right is implicit in ICESCR articles 11 and 12 on the right to an adequate standard of living and the right to health, as further detailed below.

In July 2010, the United Nations (UN) General Assembly reaffirmed the recognition of the right to safe and clean drinking water and sanitation “as a human right that is essential for the full enjoyment of life and all human rights”.³⁶ This was further recalled in September 2010 resolution 15/9 of the Human Rights Council, which affirmed “that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and inextricably related to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity”.³⁷ Part two of this report addresses the content of most of the international instruments that enshrine the right to water and sanitation and other related human rights. A list of those instrument is also found in the sub-section below.

2.2.2. Uganda’s adherence to international and regional instruments

Uganda has ratified most of the international documents that encompass the right to water and sanitation or other related human rights. The tables below provide an overview of Uganda’s ratification and signatures of international and regional instruments.

³² UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, art. 11 [ICESCR].

³³ Realising the human rights to water and sanitation: A Handbook by the UN Special Rapporteur Catarina de Albuquerque, 2014, at 23.

³⁴ Realising the human rights to water and sanitation: A Handbook by the UN Special Rapporteur Catarina de Albuquerque, 2014, at 23.

³⁵ International Conference on Population and Development, 1994, Programme of Action, Principle 2.

³⁶ UN General Assembly, Resolution 67/292 on The human right to water and sanitation, A/RES/67/292, 3 August 2010.

³⁷ Human Rights Council, Resolution 15/9 The Right to Water and Sanitation, A/HRC/RES/15/9, Fifteenth Sess. 6 October 2010.

Table 1. International instruments

Instruments	Signature	Ratification
Geneva Convention (IV) relative on the protection of Civilian Persons in Time of War (1949)		18 May 1964
International Covenant on Civil and Political Rights (1966)		21 June 1995
Optional Protocol to the International Covenant on Civil and Political Rights (1966) <u>Reservation:</u> Article 5 "The Republic of Uganda does not accept the competence of the Human Rights Committee to consider a communication under the provisions of article 5 paragraph 2 from an individual if the matter in question has already been considered under another procedure of international investigation or settlement."		14 Nov 1995
International Covenant on Economic, Social and Cultural Rights (1966)		21 Jan 1987
Optional protocol to the International Covenant on Economic Social and Cultural Rights (2008)	/	/
International Convention on the Elimination of All Forms of Racial Discrimination (1966) Uganda did not recognize under article 14 the competence of the Committee on the Elimination of Racial Discrimination to receive individual complaints on human rights violations.		21 Nov 1980
Convention on the Elimination of All Forms of Discrimination against Women (1979)	30 Jul 1980	22 Jul 1985
Optional protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)	/	/
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) Uganda did not make a declaration under article 22 recognizing the competence of the Committee against Torture to receive individual complaints on human rights violations.		03 Nov 1986
Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (2002)	/	/
Convention on the Rights of the Child (1989)	17 Aug 1990	17 Aug 1990
Optional Protocol to the Convention on the Rights of the Child on a communications procedure (2011)	/	/
ILO Indigenous and Tribal Peoples Convention – C169 (1989)	/	/
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly Africa (1994)	21 Nov 1994	25 June 1997
Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters (1998)	/	/
Convention on the Rights of Persons with Disabilities (2006)	30 Mar 2007	25 Sep 2008
Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006)	30 Mar 2007	25 Sep 2008

Table 2. Regional instruments

Instruments	Signature	Ratification
African Convention on the Conservation of Nature and Natural Resources (1968)	1968	1977
African Charter on Human and People's Rights (1981)	27 May 1986	21 Oct 1986
African Charter on the Rights and Welfare of the Child (1990)	26 Feb 1992	17 Aug 1994
The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003)	18 Dec 2003	22 Jul 2010
African Peer Review Mechanism		Accession in 2003
African Convention on the Conservation of Nature and Natural Resources ³⁸ (revised version) (2003)	2003	
African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (2009)	2009	2010

2.2.3. Political commitments of Uganda

In addition to its commitments arising from its adherence to international legal instruments, Uganda has also joined various regional and international declaration, which enshrined political commitments related to the right to water and sanitation. The following tables outline those commitments as well as the main interpretative documents related to the human right to water and sanitation.

Table 3. International political commitments and interpretative documents

Universal Declaration of Human Rights (1948)	
Standard Minimum Rules for the Treatment of Prisoners (1955)	
Declaration of the United Nations Conference on the Human Environment (1972) (Stockholm Declaration)	Adopted by the UN Conference on the Human Environment; Uganda participated
United Nations Rules for the protection of Juveniles Deprived of their Liberty (1990)	Rules adopted by the General Assembly
Rio Declaration on Environment and Development (1992)	Uganda was represented at the conference
Vienna Declaration and programme of Action (1993)	Adopted by consensus at the World Conference on Human Rights in Vienna on 25 June 1993
International Conference on Population and Development (1994)	Uganda represented – Adoption of the 20-year Programme of Action
Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national security (FAO) (2004)	Adopted by the 127th Session of the FAO Council in November 2004
Guiding Principles on Internal Displacement (1998)	The guiding principles were based in part on various international conventions such ICESCR, CRC I, etc. ³⁹
United Nations General Assembly Resolution A/RES/64/292 (Adopted 28 July 2010)	Vote: Uganda absent
Sanitation and Water for All : Global Framework for Action	Commitments for 2010, 2012, 2014

³⁸ The Convention comes into force thirty days after the deposit of the fifteenth ratification. As of September 2015, 12 States ratified the Convention, and 42 states are signatories.

³⁹ OHCHR, International standards on internal displacement, <http://www.ohchr.org/EN/Issues/IDPersons/Pages/Standards.aspx>.

Table 4. Regional political commitments and interpretative documents

Abuja Declaration adopted at the 1st Africa-South America Summit (2006)	Signed, 2006 ; Agreed by delegates from States
Sharm El Sheikh commitments (2008)	Signed, 2008; Declaration agreed by African Heads of States and Government in AU
eThekwini Declaration (2008)	Signed, 2008
African Commission on Human and Peoples' Rights, Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and Peoples' Rights (2010)	

2.2.4. Uganda's recognition of the right to water and sanitation

Through its accession to the ICESCR, Uganda recognized the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health"⁴⁰, as laid down under article 12 of the Convention. The right to health "embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as [...] access to safe and potable water and adequate sanitation, [...] and a healthy environment."⁴¹ In addition, the core obligations of this article include at least to ensure access to basic sanitation and an adequate supply of safe and potable water.⁴²

Uganda has also recognized through article 11 of ICESCR "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing"⁴³, and has committed to take appropriate steps to ensure the realization of this right. Although not explicitly written, the right to housing also encompasses the right to water and sanitation: "an adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water [...] sanitation [...]".⁴⁴

General Comment No. 15 interprets these two articles and explains that the right to water and sanitation is implied in both of them. Article 11(1) of the Covenant "specifies a number of rights emanating from, and indispensable for, the realization of the right to an adequate standard of living including adequate food, clothing and housing"⁴⁵. The Comment further explains that this list is not exhaustive and that the right to water clearly falls within the category of guarantees essential for securing an adequate standard of living.⁴⁶

The Committee also stresses that it has previously recognized that water is a human right that arises from article 11(1), as seen in General Comment No. 6, in addition to be inextricably related to the right to health (article 12(1) of ICESCR) and the right to adequate housing and food.⁴⁷

Other conventions ratified by Uganda also comprise the right to water and sanitation. For example, the Convention on the Rights of the Child provides that States parties shall take appropriate measures to combat disease and malnutrition "through the provision of adequate nutritious foods and clean drinking water, taking into consideration the dangers and risks of environmental pollution."⁴⁸ As for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the CAT committee linked poor conditions of detention, including poor sanitation and unacceptable conditions for

⁴⁰ ICESCR, art. 12.

⁴¹ CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health, 11 August 2000, E/C.12/2000/4, para 4 [General Comment No. 14].

⁴² General Comment No. 14, para 43.

⁴³ ICESCR, art 11(1).

⁴⁴ CESCR, General Comment No. 4: The right to adequate housing, 13 December 1991, E/1992/23, para 8(b) [General Comment No. 4].

⁴⁵ General Comment No. 15, para 3.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Convention on the Rights of the Child, 1989, Art. 24(2)(c) [CRC].

female detainees, such as the lack of gender sensitive facilities, to areas of concerns related to the Convention.⁴⁹ In particular, such issues concern article 16, which reads:

Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

The right to water and sanitation is also implied in the Convention on the Rights of Persons with Disabilities (CRPD) and found under article 14 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

At the regional level, Uganda is party to various African human rights instruments, namely the African Charter on Human and Peoples' Right (ACPHR), the African Charter on the Rights and Welfare of the Child (ACRWC), the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa as well as the African Convention on the Conservation of Nature and Natural Resources. With regard to the ACPHR, the right to water and sanitation is implied through the protection of various rights encompassed in the instrument, such as the rights to life, dignity, work, food, health, economic, social and cultural development and to a satisfactory environment.⁵⁰ In its resolution on the Right to Water Obligations of 2015, the African Commission on Human and Peoples Rights urged all African Union Member States

*[t]o meet their obligations in providing clean drinking water for all their populations and to conscientiously cooperate in the management and protection of water resources.*⁵¹

The HRWS [human right to water and sanitation] can be further explicitly found under article 14(2) of African Charter on the Rights and Welfare of the Child. The document states that States Parties shall take measures to "ensure the provision of adequate nutrition and safe drinking water" and "ensure that all sectors of the society, in particular, parents, children, community leaders and community workers are informed and supported in the use of basic knowledge of child health and nutrition, [...] hygiene and environmental sanitation."⁵² Under article V of the Convention on the Conservation of Nature and Natural Resources, "the contracting States [...] shall endeavour to guarantee for their populations a sufficient and continuous supply of suitable water [...]"⁵³ As for the Protocol on Rights of Women in Africa, Uganda has committed to "ensure that women have the right to nutritious and adequate food", and, in this regard, to take appropriate measures to "provide women with access to clean drinking water [...]"⁵⁴

The Abuja Declaration (2006), the eThekweni Declaration (2008) and well as the Sharm El Sheikh commitments (2008), all of which were signed by Uganda, also demonstrate that there is a consensus on the importance of the right to water and sanitation. In the Abuja Declaration, adopted at the 1st Africa-South America Summit, the participating States have recognized the importance of water as a natural resource of State and committed themselves to promote the right of their citizens to have "access to clean

⁴⁹ Committee against Torture, Conclusions and recommendations of the Committee against Torture: United Kingdom of Great Britain and Northern Ireland, Crown Dependencies and Overseas Territories, U.N. Doc. CAT/C/CR/33/3 (2004), para 4 (g); Committee against Torture, Conclusions and recommendations of the Committee against Torture: Tajikistan. U.N. Doc. CAT/C/TJK/CO/1 (2006), at para 20.

⁵⁰ Principles and guidelines on the implementation of economic, social and cultural rights in the African charter on human and people's rights African Charter on Human and People's Rights, para 87.

⁵¹ ACHPR, Resolution 2015, ACHPR/Res.300 (EXT.OS/XVII). Available at: <http://www.achpr.org/sessions/17th-ao/resolutions/300/>.

⁵² African Charter on the Rights and Welfare of the Child, Article 14(2).

⁵³ African Convention on Conservation of Nature, Article V.

⁵⁴ Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Art. 15.

and safe water and sanitation” in their respective jurisdictions.⁵⁵ The eThekweni Declaration on sanitation makes 11 specific commitments which include:

- *To establish, review, update and adopt national sanitation and hygiene policies within 12 months of AfricaSan 2008; establish one national plan for accelerating progress to meet national sanitation goals and the MDGs by 2015, and take the necessary steps to ensure national sanitation programs are on track to meet these goals;*
- *Increase the profile of sanitation and hygiene in Poverty Reduction Strategy Papers and other relevant strategy related processes;*
- *To ensure that one, principal, accountable institution takes clear leadership of the national sanitation portfolio; establish one coordinating body with specific responsibility for sanitation and hygiene, involving all stakeholders, including but not limited to those responsible for finance, health, water, education, gender, and local government;*
- *To establish specific public sector budget allocations for sanitation and hygiene programs. allocations should be a minimum of 0.5% of GDP for sanitation and hygiene;*
- *To use effective and sustainable approaches, such as household and community led initiatives, marketing for behaviour change, educational programs, and caring for the environment, which make a specific impact upon the poor, women, children, youth and the unserved;*
- *To develop and implement sanitation information, monitoring systems and tools to track progress at local and national levels and to work with global and regional bodies to produce a regular regional report on Africa’s sanitation status, the first of which to be published by mid-2010;*
- *To recognize the gender and youth aspects of sanitation and hygiene, and involve women in all decision making levels so that policy, strategy and practice reflect gender sensitive approaches to sanitation and hygiene;*
- *To build and strengthen capacity for sanitation and hygiene implementation, including research and development, and support knowledge exchange and partnership development.⁵⁶*

The Sharm El Sheikh commitments were subsequently adopted with the aim of addressing the gaps in the context of the eThekweni Declaration. The signatory States particularly committed to:

- *Develop and/or update national water management policies, regulatory frameworks, and programmes, and prepare national strategies and action plans for achieving the MDG [Millennium Development Goals] targets for water and sanitation over the next seven (7) years.*
- *Ensure the equitable and sustainable use, as well as promote integrated management and development, of national and shared water resources in Africa;*
- *Build institutional and human resources capacity at all levels including the decentralized local government level for programme implementation, enhance information and knowledge management as well as strengthen monitoring and evaluation;*
- *Put in place adaptation measures to improve the resilience of our countries to the increasing threat of climate change and variability to our water resources and our capacity to meet the water and sanitation targets;*
- *Significantly increase domestic financial resources allocated for implementing national and regional water and sanitation development activities.*
- *Develop local financial instruments and markets for investments in the water and sanitation sectors;*
- *Promote effective engagement of African civil society and public participation in water and sanitation activities and programmes;*
- *Promote programming that addresses the role and interests of youth and women, given that the burden of poor water and sanitation falls disproportionately on women and children;*

⁵⁵ Abuja Declaration, 2006, VI. (18.).

⁵⁶ EThekweni Declaration, 2008, available at: <http://www.wsp.org/sites/wsp.org/files/publications/eThekweniAfricaSan.pdf>.

- *Strengthen AMCOW [African Ministers' Council on Water] as a key regional mechanism, and other regional stakeholders, as relevant, for promoting cooperation on water and sanitation;*
- *Strengthen AMCOW's initiative on sustainable management of water resources, to implement its roadmap for the African Groundwater Commission;*
- *Strengthen partnership at all levels in our countries and between Regional Economic Communities as well as with the international development agencies and promote public-private partnerships with the view to fast tracking actions towards meeting the MDG on water and sanitation in our continent;*
- *Call on African Ministers in charge of water and finance in collaboration with the African Development Bank and development partners, to hold a meeting of Ministers of Water and Finance to develop appropriate financing policies;*
- *Request the Regional Economic Communities and the Rivers and Lake Basin Organizations to initiate regional dialogues on climate change and its impacts on the water sector with the aim of designing appropriate adaptation measures.*

2.2.5. The obligation to respect, protect, fulfil human rights

In relation to international human rights law States bear a threefold duty, which is referred to as the obligation to respect, protect and fulfil.

The **obligation to respect** is a negative obligation which requires the State not to interfere with the exercise of a given human right. With respect to water, this means that States are required to refrain from interfering directly or indirectly with the enjoyment of the right to water. This may be engaging in a practice or activity that limits equal access to water, or arbitrary interfering with arrangements for water allocation.⁵⁷ States may also not interfere with the enjoyment of the right to water outside their jurisdiction.⁵⁸ In relation to environmental issues, it means among others to refrain from unlawfully diminishing or polluting water, such as through waste from State-owned facilities,⁵⁹ or other means attributable to the responsibility of the State.

The Committee on Economic, Social and Cultural Rights has identified the following violations as examples which would violate the obligation to respect the right to water:

- Arbitrary or unjustified disconnection or exclusion from water services or facilities;
- Discriminatory or unaffordable increases in the price of water;
- Pollution and diminution of water resources affecting human health.⁶⁰

The **obligation to protect** consists of ensuring that third parties do not interfere in any way with the enjoyment of the right to water and sanitation. Third parties consist of individuals, groups, corporations and other entities as well as agents acting under their authority.⁶¹ Taking all necessary measures, including adopting legislative and other measures, is therefore imperative to prevent third parties from infringing the right to water,⁶² such as by denying access to water, polluting water sources or inequitably extracting water from wells or other distribution systems.⁶³ Where water services (e.g. piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, "States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and [the] General Comment, which includes independent monitoring, genuine public participation and imposition of penalties for non-compliance."⁶⁴

⁵⁷ General Comment No. 15, para 21.

⁵⁸ General Comment No. 15, para 31.

⁵⁹ General Comment No. 15, para 21.

⁶⁰ General Comment No. 15, para 44(a).

⁶¹ General Comment No. 15, para 23.

⁶² General Comment No. 15, para 44(b).

⁶³ General Comment No. 15, para 23.

⁶⁴ General Comment No. 15, para 24.

The following examples would amount to violation of the obligation to protect:

- Failure to enact or enforce laws to prevent the contamination and inequitable extraction of water;
- Failure to effectively regulate and control water services providers;
- Failure to protect water distribution systems (e.g. piped networks and well) from interference, damage and destruction.⁶⁵

The **obligation to fulfil** requires States to take positive measures directed towards the full realization of the right to water and sanitation. This implies among others the obligation to facilitate the realization of the right by assisting individuals and communities to enjoy the right, the obligation to promote by take steps directed towards ensuring that there is appropriate education concerning water and generally environment related matters, and the obligation to provide the right to individuals who cannot do so themselves.⁶⁶ States should adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations. Such strategies and programmes may include, for example, reducing depletion of water resources, reducing and eliminating contamination of watersheds and water- related eco-systems, increasing the efficient use of water by end-users, and reducing water wastage in its distribution.

To meet the obligation to fulfil, States are require to ensure sufficient recognition of the right to water and sanitation within their national systems, preferably by way of legislative implementation. In addition, national water strategy and plan of action should be adopted, affordability ensured for everyone and improved and sustainable access to water, also in rural and deprived urban areas.⁶⁷

Examples of failure to take all necessary steps to ensure the realization of the right to water are:

- failure to adopt or implement a national water policy designed to ensure the right to water for everyone;
- insufficient expenditure or misallocation of public resources which results in the non-enjoyment of the right to water by individuals or groups, particularly the vulnerable or marginalized;
- failure to monitor the realization of the right to water at the national level, for example by identifying right-to-water indicators and benchmarks;
- failure to take measures to reduce the inequitable distribution of water facilities and services;
- failure to adopt mechanisms for emergency relief;
- failure to ensure that the minimum essential level of the right is enjoyed by everyone;
- failure of a State to take into account its international legal obligations regarding the right to water when entering into agreements with other States or with international organizations.⁶⁸

2.2.6. Reporting obligations

Many of the international and regional instruments adhered to by Uganda comprise an obligation to report on the measures adopted by the State and the progress made in relation to the rights enunciated. In Uganda, reporting to treaty bodies falls under the main responsibility of the Ministry of Foreign Affairs (MFA), which has a coordinating role in order to ensure that Uganda, through its line ministry, complies with its international obligations towards other States. Every sector is handled by the line ministry and the progress is reported by each of those departments. It has been however reported that a clear coordinated approach within the Ministry is needed to ensure an adequate follow-up with the recommendations and conclusions issued by treaty bodies. What arises from Uganda's reporting cycle, is that the State has experienced important delays in submitting its reports to treaty bodies. For example, Uganda's initial report to the Committee on Economic, Social and Cultural Rights was due on 30 June 1990 and was submitted on 6 December 2012. Delays have been also noticed in Uganda's reporting obligations arising from other human rights conventions.⁶⁹

⁶⁵ General Comment No. 15, para 44(b).

⁶⁶ General Comment No. 15, para 25.

⁶⁷ General Comment No. 15, para 26.

⁶⁸ General Comment No. 15, para 44(c).

⁶⁹ *E.g.* the Convention on the Rights of persons with Disabilities, the Convention on the Elimination of All Forms of Discriminations against Women, the Convention on the Rights of the Child, etc.

PART II
THE NATIONAL LEGAL FRAMEWORK PERTAINING TO THE HUMAN RIGHT TO WATER
AND SANITATION



2.3. Uganda’s legal system and the human right to water and sanitation

2.3.1. Uganda’s legal system in relation to public international law

In Uganda, the relationship between national and international law is characterized by a dualist system. The supreme law of the country, the Constitution of 1995,⁷⁰ allows the president or a person authorized by him to make treaties or other arrangements at the international level in respect of any matter.⁷¹ However, only the Parliament is entitled to make laws to govern the ratifications of the instruments.⁷² In fact, it is the only institution that has the power to make provisions having the force of law in Uganda, unless when authorized under an Act of Parliament.⁷³ As a result, before a treaty can be enforceable at the national level by courts or authorities, it must be first domesticated through an Act of Parliament.⁷⁴

Nevertheless, the Ratification of Treaties Act specifies that “[a]ll treaties ratified by the Cabinet shall be laid before Parliament as soon as possible.”⁷⁵ In addition, the Constitution calls for the respect for international law and treaty obligations by the State,⁷⁶ and several national laws related to water and sanitation explicitly refer to international obligations. For example, it is specified in the Water Act that while exercising their powers and functions under the Act, the Minister of Water and Environment, the director of water development (hereinafter “director”), authorized person or any other person “shall have regard to any relevant international agreement regulating the use of water to which Uganda is a party”.⁷⁷ Moreover, the National Environment Act entitles the Minister to take different actions, by statutory order and with the approval of the Parliament by resolution, to give effect to treaties or conventions concerning the environment.⁷⁸ Another example is found in the First Schedule of the Children Act on the guiding principles in the implementation of Act, which confers to children the right to exercise all the rights guaranteed in the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the African Child.⁷⁹

Uganda’s international commitments on the right to water and sanitation should be translated into its national context, namely within the legal framework. The obligation to fulfil indeed requires States parties to “adopt the necessary measures directed towards the full realization of the right to water”.⁸⁰ These include according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation. As a Member State of the African Union party to the African Charter on Human and Peoples’ Rights, Uganda is expected to undertake to adopt legislative or other measures to give effect to the rights, duties and freedoms found in the Charter.⁸¹ Such measures “include providing for the protection and realisation of economic, social and cultural rights through constitutional rights and institutions”.⁸²

Against this background, the Part II examines how the Ugandan national legal framework articulates the right to water and sanitation, as recognized at the international level. Prior to addressing each of the

⁷⁰ Constitution of the Republic of Uganda, 1995, Article 2 [Constitution].

⁷¹ Constitution, Article 123(1).

⁷² Constitution, Articles 79 and 123(2).

⁷³ Constitution, Article 79(2).

⁷⁴ See e.g. Core Document Forming Part of the Reports of States Parties: Uganda, UN Doc HRI/CORE/1/Add.69 (7 March 1996), para 41.

⁷⁵ Ratification of Treaties Act, section 4. <http://www.ulii.org/ug/legislation/consolidated-act/204>

⁷⁶ Constitution, XXVIII(i)(b). The Human Rights Commission is responsible for monitoring the Government’s compliance with international obligations on human rights. Constitution, Article 52(1)(h).

⁷⁷ Water Act, Section 43(b).

⁷⁸ National Environment Act, Section 106 [NEA].

⁷⁹ Children Rights Act, First Schedule, Section 4(c). The section specifies that the rights set out in those Conventions are applied “with appropriate modifications to suit the circumstances in Uganda”.

⁸⁰ General Comment No. 15, para 26.

⁸¹ African Charter on Human and Peoples’ Rights, art. 1 [ACHPR].

⁸² Principles and Guidelines on the implementation of economic, social and cultural rights in the African charter on human and people’s rights African Charter on Human and People’s Rights, para 2

procedural guarantees and normative content of the right to water and sanitation, it is important to first determine whether the right itself is explicitly included in national laws. The following sub-section examines this question.

2.3.2. The articulation of the right to water and sanitation in Uganda's national legal framework

The fundamental law of Uganda, the Constitution of 1995, devolves an entire Chapter (Chapter four) to fundamental rights and freedoms, listing a number of civil and political rights as well as some economic, social and cultural rights. In addition, it mentions that “[f]undamental rights and freedoms of the individual are inherent and not granted by the State”⁸³ and that they must be “respected, upheld and promoted by all organs and agencies of Government and by all persons”.⁸⁴ The right to water and sanitation, however, has not been included in the Constitution under Chapter four. Instead, it is specified that that the specific mention of the rights listed shall not be regarded as excluding others.⁸⁵ In addition, provisions on access to water are found together with other economic and social objectives under the part on national objectives and directive principles of State policy, also called the *preamble*:

- **XIV. General social and economic objectives.** *The State shall endeavour to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that [...] (b) all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water [...].*
- **XXI. Clean and safe water.** *The State shall take all practical measures to promote a good water management system at all levels.*

The Constitution states that “Uganda shall be governed based on principles of national interest and common good enshrined in the national objectives and directive principles of State policy” and the Parliament is required to make relevant laws for the purpose of giving full effect to this clause.⁸⁶

However, the objectives and principles found in the *preamble* do not have the same force as other provisions of the Constitution and the wording used in the Constitution does not unequivocally allow economic, social and cultural rights, such as the right to water and sanitation, to be justiciable in Uganda. In fact, they were until recently still reported as being not enforceable by many stakeholders. In 2012, the case *CEHURD & Others v. Attorney General* on the right to health, absent from Chapter four but referred to in the preamble, was dismissed as the Court found that the complaint fell under the “doctrine of political question”.⁸⁷ More recently, however, the Court has adopted a more liberal approach to economic, social and cultural rights. In Uganda’s High Court ruling *Center for Health, Human Rights and Development and Others Vs Nakaseke District Local Administration*,⁸⁸ delivered in May 2015, the right to health was found to be justiciable and therefore enforceable like other rights in the Constitution. Thus, it may be observed that Courts have started treating economic, social and cultural rights (ESCR) as enforceable rights. In this context, it is possible that the Court could interpret the Constitution in a way that would recognize the existence of right to water and sanitation based on the Constitution, but justifiability of this right remains dependent on the willingness of the Courts to adopt such approach.

The Water Act, for its part, has been adopted with the objective to promote the provision of clean, safe and sufficient water for domestic purposes to all persons.⁸⁹ In practice, however, an explicit mention of the human right to water and sanitation is missing and no enforcement texts that articulate the right to water and sanitation are currently in use. Similarly, the Public Health Act does not provide for the right to water and sanitation to all, but it prohibits certain nuisances which mean that no one shall suffer from a lack of

⁸³ Constitution, Article 20(1).

⁸⁴ Constitution, Article 20(2).

⁸⁵ Constitution, Article 45.

⁸⁶ Constitution, Article 8A(1).

⁸⁷ *Centre for Health Human Rights & Development & 3 Ors Vs Attorney General*, Constitutional Petition No. 16 of 2011.

⁸⁸ *Center for Health, Human Rights and Development (CEHURD) and Others Vs Nakaseke District Local Administration*, Civil Suit No 111 of 2012.

⁸⁹ Water Act, Section 4(b).

adequate sanitation facilities and inaccessibility to water supply within reasonable distances.⁹⁰ Other Acts, such as the National Environment Act, have also important sections that affect the realization of the right to water and sanitation.

A specific clause on the human right to water and sanitation would be however needed in the law in order to ensure the enforceability of this right. Currently, numerous references to procedural guarantees and criteria of the right can be found in the legal framework. The following sections explain the meaning of each of them and determine how they are articulated in the national law.

2.4. Human rights procedural guarantees

Procedural guarantees play an important role in the realization of the human rights, including the right to water and sanitation. The present section expounds the concepts of non-discrimination, access to information, participation, accountability and sustainability, all of which give meaning to the human right to water and sanitation. Each sub-section explains the content of those procedural obligations as found at the international level before assessing whether they are captured in the national legal framework of Uganda.

2.4.1. Non-discrimination

Often, marginalized groups of people face a lack of access to basic entitlements, such as water and sanitation. The principle of non-discrimination is therefore important, as it seeks to ensure equal access to water and sanitation to all, including marginalized or other particular groups. Reference to this procedural guarantee may be found in most of international human rights instruments.

The first article of the Universal Declaration of Human Rights declares that “[a]ll human beings are born free and equal in dignity and rights”. The document further states that “[e]veryone is entitled to all the rights and freedoms set forth in this Declaration, without discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”⁹¹ The same provision is found in ICESCR,⁹² and similar articles are enshrined in other human rights instruments adhered to by Uganda.⁹³ For example, the Convention on the Elimination of All Forms of Discrimination against Women is particularly explicit by obliging States parties to eliminate discrimination against women, particularly in rural areas, to ensure that women “enjoy adequate living conditions, particularly in relation to housing, sanitation [...] and water supply [...]”.⁹⁴ More specifically, General Comment No. 15 recalls that water, as well as water facilities and services must be accessible to all, including the most marginalized sections of the population. This must be put in place not only in law, but also in fact, without discrimination.⁹⁵ In fact, ensuring “the right of access to water and water facilities on a non-discriminatory basis, especially for disadvantaged or marginalized groups” is one of the core obligations of immediate effect in relation to the right to water.⁹⁶

Some places, persons and groups will also require particular attention in the realization of the right to water and sanitation, as they often are often marginalized and excluded. These groups include women, children, people living in rural and deprived urban areas, indigenous, nomadic and traveller communities; asylum seekers, refugees, IDP and returnees; prisoners and detainees; as well as other specific groups of people

⁹⁰ Public Health Act, Section 57.

⁹¹ Universal Declaration of Human Rights, Art. 2.

⁹² ICESCR, Art. 2(2).

⁹³ See e.g. Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national security, 8.1.; In relation to women, see CEDAW, art. 14(2)(h); in relation to children, CRC 2(1); with regard to person with disabilities, Convention on the Rights of Persons with Disabilities, art. 4(1) [CRPD]; International Convention on the Elimination of All Forms of Racial Discrimination; African Charter on the Rights and Welfare of the Child, Art. 3.

⁹⁴ Convention on the Elimination of All Forms of Discrimination against Women, Art. 14(2)(h) [CEDAW].

⁹⁵ General Comment No. 15, para 12(c).

⁹⁶ General Comment No. 15, para 37(b).

facing difficulties with physical access to water, such as older persons, persons with disabilities, victims of natural disasters, arid areas, small islands, etc.⁹⁷ In this respect, Uganda has notably agreed to

*provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services, and where appropriate, extend such assistance to local and host communities.*⁹⁸

In the context of the Sanitation and Water for All Global Framework for Action, Uganda has also agreed to provide additional support to “increase access for the poorest and most vulnerable households, to ensure socio-economic benefits are spread equitably among the population”.⁹⁹ The engagements were made in 2012, but all unfilled commitments were subsequently rolled over to 2014. In relation to the latter year, the draft statement contains Uganda’s ‘SMART’ commitments which call on the local governments to ensure 100% sanitation coverage.¹⁰⁰

The human rights declaration is also clear that non-discrimination applies to access justice: “All are equal before law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”¹⁰¹

Non-discrimination in the national legislation

The concept of non-discrimination is reflected in the main legal framework to various extents. The Constitution prohibits discrimination based on various grounds but the list is not inclusive.¹⁰² Since Courts have started using progressive interpretation,¹⁰³ it may be possible to rely on article 45 of the Constitution to extend the prohibition of discrimination to those grounds that are not mentioned in the Constitution. Article 45 reads:

The rights, duties, declarations and guarantees relating to the fundamental and other human rights and freedoms specifically mentioned in this Chapter shall not be regarded as excluding others not specifically mentioned.

The Constitution should nevertheless explicitly prohibit discrimination based on *all grounds* in order to ensure that all groups of people are constitutionally protected against discrimination. Without such unequivocal guarantee, there remains a risk that an interpretation of the Constitution in favour of all groups would not be adhered to by the Court, which could lead to the exclusion of a given group from the clause on non-discrimination.

As concerns water and sanitation services specifically, the legislation analysed does not offer the protection and fulfilment of access to water and sanitation to all without discrimination. Access to water for all Ugandans is an objective stated in the fundamental law, but the Water Act does not mention the non-discrimination principle. On the other hand, the Persons with Disabilities Act and the Children Act call for non-discriminatory measures, some of which can be linked to water and sanitation services. For example, section 25 of the Persons with Disabilities Act states that a person shall not provide services or make

⁹⁷ General Comment No. 15, para 16; see also ACHPR, Resolution 2015, ACHPR/Res.300 (EXT.OS/XVII). Available at: <http://www.achpr.org/sessions/17th-ao/resolutions/300/>.

⁹⁸ African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (“Kampala Convention”), Art. 9(2)(b).

⁹⁹ The Republic of Uganda, Ministry of Finance planning and economic development, Ministry of water and environment and Ministry of health, *Sanitation and Water for all: A Global Framework for Action; Uganda Country Statement*, 6 April 2012, at 4.

¹⁰⁰ The Republic of Uganda, Ministry of Finance planning and economic development, Ministry of water and environment and Ministry of health, *Sanitation and Water for all: A Global Framework for Action; Uganda Country Draft Statement*, April 2014, at 3.

¹⁰¹ Universal Declaration of Human Rights, Art. 7.

¹⁰² Constitution, Article 21.

¹⁰³ The case against Nakaseke hospital, referred to above, shows that the Ugandan courts have already started respecting rights beyond chapter four of the Constitution.

facilities available with a view to discriminate against another person on the ground of that person's disability by –

- (a) refusing to provide to a person with a disability any service which he or she provides to other members of the public;*
- (b) deliberately making it impossible or unreasonably difficult for persons with disabilities to make use of the service or facility.*

The Persons with Disabilities Act also requires the Government to uphold, respect and promote all rights enshrined in Chapter four in respect to persons with disabilities,¹⁰⁴ but that Chapter does not enshrine the right to water and sanitation. As for the Children Act, the document establishes only guiding principles that may be linked indirectly to the right to water and sanitation,¹⁰⁵ without calling for the protection, respect and fulfilment of that right.

The legal framework should characterize the content of the HRWS, namely by defining criteria to be used for identifying and characterizing the unserved, marginalized or disadvantaged. Special attention should be subsequently given to those groups of people. To better fulfil the right to water and sanitation, the obligation to adopt targeted positive measures for such groups should be found in the main legal framework relevant for the provision of drinking water supply and sanitation services, including in the Water Act.

Lastly, an analysis of the Land Act shows that elements related to non-discrimination with regard to women, children and persons with disabilities are captured throughout the document in certain specific cases. In particular, the Act ensures that customs, traditions and practices of communities do not prevent women, children and persons with disabilities to use land of customary tenure. This clause is however not applicable to other forms of tenure addressed by the Act (i.e. freehold, mailo and leasehold) and there is no general clause on non-discrimination articulated in the instrument. Moreover, Uganda's dual legal systems of customary and statutory law can affect differently certain groups of people. It has been reported that although the Land Act does not discriminate between women and men, non-discrimination is not always applied in practice. In fact, there is ignorance of statutory law, mainly in rural communities, due to "high illiteracy rates and inaccessible courts".¹⁰⁶ Statutory law is therefore less used in some areas, which can lead to situations where women are denied the possibility to own land due to customary rules or traditions on customary tenure.

2.4.2. Access to information

The normative content of the right to water and sanitation contains information accessibility, which is a factor that applies in all circumstances.¹⁰⁷ This type of accessibility incorporates the right to seek, receive and impart information concerning water issues,¹⁰⁸ and means that full and equal access to information pertaining to water, water and sanitation services and the environment should be given to both individuals and groups.¹⁰⁹ It concerns information held by public authorities but also by third parties. This comprises the duty of the state to make information available, namely on the provision of services, tariff systems and the quality of water and sanitation. Only informed users of water and sanitation services will be able to voice concerns and hold entities to account.

Different international human rights instruments generally relate to access to information. For example, the right to seek, receive and impart information is explicit in the Universal Declaration of Human Rights,¹¹⁰

¹⁰⁴ Persons with Disabilities Act, Section 32.

¹⁰⁵ Children Act, Section 3 and First Schedule, Section 4.

¹⁰⁶ Jacqueline Asiimwe, "Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses", Yale Human Rights & Development L.J., Vol. 4.1 (2001) at 176; See also Christopher Burke and Doreen Nancy Kobusingye, Women's Land Rights in Northern Uganda, Commissioned by Oxfam, 2014, at 24.

¹⁰⁷ General Comment No. 15, para 22.

¹⁰⁸ General Comment No. 15, para 12.

¹⁰⁹ General Comment No. 15, para 48.

¹¹⁰ Universal Declaration of Human Rights, Article 19: "Everyone has the right to freedom of opinion and expression; this right includes the right [...] to seek, receive and impart information and ideas through any media and regardless of frontiers."

but also in the ACHPR and the CRC.¹¹¹ Based on its commitments under the eThekweni declaration, Uganda has also to both develop and implement sanitation information.¹¹² Access to information further refers to the information needed before a disconnection or any similar interference with an individual's right to water. These should occur only after timely and full disclosure of information.¹¹³

Education in relation to water is another element that is linked to access to information. In this regard, the CRC article 24 lays down the obligation to provide information and education to all segments of society on hygiene and environmental sanitation.¹¹⁴ Moreover, both the General Comment No. 15 and the Principles and guidelines on the implementation of ESCR in the ACHPR specify the obligation to ensure appropriate education in relation to water, sanitation and hygiene:

*The obligation to promote obliges the State party to take steps to ensure that there is appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.*¹¹⁵

*Sanitation comprises at least, a clean toilet or latrine, together with collection, disposal and treatment of human excreta, wastewater, solid waste and storm water removal and hygiene education.*¹¹⁶

Ensuring appropriate education concerning hygienic use of water, right to water and protection mechanisms,¹¹⁷ protection of water and methods to minimize water wastage,¹¹⁸ as well as using effective and sustainable approaches such as educational programs,¹¹⁹ are examples of other international engagements that should be reflected at the national level.

Access to information under national law

The national legal framework provides for the respect of the right of access to information. This right is granted by the fundamental law and should be applicable to information on water or water supply and sanitation services.¹²⁰ According to the Constitution, only two restrictions are applicable: when the information is likely to prejudice the security or sovereignty of the State or when it interferes with the right to the privacy of any other person.¹²¹ Yet, many challenges must be addressed to facilitate better access to information on water and sanitation services for Ugandan citizens.

The Access to Information Act duplicates the right of access to information from the Constitution¹²² and specifies that the information must be up-to-date, as far as is practicable.¹²³ The Act also obliges public bodies to compile a manual containing information on, e.g., services available to the public, how to gain access to information, description of remedies available in respect of an act or a failure to act by the body, etc.¹²⁴ The National Water and Sewerage Corporation (NWSC) and the Ministry on Water and Environment are among others concerned by this clause.¹²⁵ On the other hand, the Access to Information Act contains

¹¹¹ CRC, art. 13; ACHPR, art. 9(1).

¹¹² General Comment No. 15, para 48.

¹¹³ General Comment No. 15, para 56; Principles and guidelines on the implementation of economic, social and cultural rights in the African charter on human and people's rights African Charter on Human and People's Rights, para 92(XI).

¹¹⁴ CRC, Section 24(2)(e).

¹¹⁵ General Comment No 15, para 25.

¹¹⁶ Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, para 91.

¹¹⁷ ACHPR, Resolution 2015, ACHPR/Res.300 (EXT.OS/XVII). Available at: <http://www.achpr.org/sessions/17th-eo/resolutions/300/>.

¹¹⁸ Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, para 92(vi).

¹¹⁹ EThekweni Declaration, 7.

¹²⁰ Constitution, art. 41.

¹²¹ Constitution, art. 41(1).

¹²² Access to Information Act, Section 5(1).

¹²³ Access to Information Act, Section 5(2).

¹²⁴ Access to Information Act, Section 7(2).

¹²⁵ A public body includes a government ministry, department, statutory corporation, authority or commission. Access to information Act, Section 4.

additional restrictions to the right of access to information other than those found in the Constitution,¹²⁶ which can lead to denying the citizens access to information instead of facilitating the process. In fact, it has been reported that in Courts lawyers prefer referring to the right to article 41 of the Constitution instead of using the Access to Information Act because of the restrictions the Act entails.¹²⁷

Furthermore, it is essential that the main water-related legal framework contains sufficient clauses both on the right to seek information and the right to receive key information on water related issues. In fact, granting a right to access information does not per se oblige suppliers of water and sanitation services to inform users on all circumstances that may be of an interest to them. Yet, it is essential that public authorities publish and update information relevant to their functions and, when there is an imminent threat to health, disseminate information that would enable the public to take appropriate measures to prevent harm arising from the threat. Information on circumstances impacting on users' well-being or having possible negative impact on the enjoyment of HRWS should be also published. Such information must be made available without delay to the members of the public who may be affected. Currently, users are allowed to ask for access to such information, but based on the law, they must not be automatically informed about all issues that may affect them. The Water Act enunciates certain important cases in which notices must be published by appropriate authorities, such as in case of regulation and restriction of consumption and use of water.¹²⁸ It is important that there is also a regulatory response to unforeseen scenarios. For example, all relevant information should reach all persons who may be concerned *e.g.* by an alteration of water and sewerage works and changes affecting water supply and sanitation services, including non-operation, alteration of capacity or of the location of the works, or prohibition or regulation of water supply. This obligation should be also specifically directed to the concerned actors and should encompass all the fundamental elements related to access to information:

- ensure that language is made understandable for people who speak languages used by the minority, but also for persons with disabilities, including persons with hearing impairments or the illiterates;
- ensure that the information is published by various means to reach all people concerned by a prohibition or regulation related to the consumption of water or any other action that affects the enjoyment of the right to water and sanitation.

Such provisions would insure that relevant information is accessible for all, including minorities. This may be also complied with by including a provision which addresses the specific needs of certain groups of people, as previously identified through adequate mechanisms.¹²⁹ It may be noted that in relation to persons with disabilities, the Persons with Disabilities Act generally obliges the responsible governmental authority to promote the right to access information, as well as the development and use of sign language in all public institutions and functions.¹³⁰ Necessary steps should be taken to ensure that this is also implemented.

Likewise, it is essential to define key responsibilities for the dissemination of information of water and sanitation services and attribute them to appropriate bodies and persons. The Local Governments Act currently requires the establishment of a secretary for information, education and mobilization at each parish and administrative level. It would be adequate to specify the functions in additional documents, and ensure access to information on budgetary issues.

¹²⁶ See *e.g.* Access to Information Act, Sections 27 and 5(1).

¹²⁷ This information was obtained from local advisors.

¹²⁸ The Water Act requires that declarations and notices be issued for certain restrictions or completed works. For example, the director is obliged to give public notice of application received for permits to construct works, to take and use water, or to discharge water. A notice must be also published when a water authority prohibits, regulates or restricts the consumption of water. Such notice may be published in a newspaper circulating in the area to which the notice relates, by radio, television or mobile loudspeaker. In addition, before discontinuing the use of any water, the water authority is required, where practicable, to give notice to all persons likely to be affected by the non-operation of the works. Water Act, Sections 18, 29 and 53.

¹²⁹ See sub-section on non-discrimination.

¹³⁰ Access to Information Act, Section 21.

Finally, better distribution of the Ugandan legislation is fundamental. Citizens must have access to the most up-to-date legislation to be informed of their rights and obligations. This is particularly important given the dual legal system in Uganda, which combines customary and statutory laws. It also means that such information should be physically accessible for all groups of persons, including persons with disabilities. The channels used must be therefore adequate to meet the needs of persons with hearing impairments or the illiterates.

2.4.3. Public participation

In order to realize the right to water and sanitation in an effective manner, participation of all people, including disadvantaged and at-risk people, is fundamental for all processes. Procedural guarantees related to participation are in fact clearly found in the instruments ratified by Uganda at the international level. ACHPR article 13(1) lays down the right of every citizen to freely participate in the governance of his country, either directly or through representatives in accordance with the law. In the context of water and sanitation, such participation can be ensured through the establishment of mechanisms for the participation of individuals and communities in decision-making on the management of water resources.¹³¹ Articles that are similar to ACHPR article 13 are found in other binding treaties ratified by Uganda, such as the CRPD and CEDAW.¹³² With regard to the latter, the State is also required to take actions in rural areas by ensuring participation in the elaboration and implementation of development planning at all levels.¹³³

Furthermore, in relation to water and sanitation specifically, Uganda is expected to “promote effective engagement of African civil society and public participation in water and sanitation activities and programmes”, as enunciated in the Sharm El Sheikh Commitments.¹³⁴ Also when water and sanitation services are controlled and operated by third parties, genuine public participation must be part of an effective regulatory system.¹³⁵

Free, meaningful and effective participation should be therefore provided for. In the context of internal displacement, special efforts should be also made to ensure full participation of women in the planning and distribution of basic water and sanitation.¹³⁶

In addition, States are required to ensure and include in water and sanitation policy programmes, strategies or plans of action the right of individuals and groups to participate in decision-making affecting their right to water and sanitation.¹³⁷ Such opportunities may have a positive impact on the realization of their right and will often strengthen the public legitimacy of the decisions taken. In addition, it is central to the acceptability criterion, which could not be realized without public participation.

Articulation of the participation principle under national law

The legal framework tackles participation by requiring that certain groups of people, such as women, persons with disabilities, the youth or even NGOs and research and academic institutions, are represented within councils¹³⁸ but also within the board of directors of the National Environment Management

¹³¹ African Union Member States were urged to establish mechanisms for this purpose. See ACHPR, Resolution 2015, ACHPR/Res.300 (EXT.OS/XVII). Available at: <http://www.achpr.org/sessions/17th-eo/resolutions/300/>.

¹³² CRPD, art. 29; CEDAW, art. 7.

¹³³ CEDAW, art. 14(1).

¹³⁴ Sharm El Sheikh Commitments, I.

¹³⁵ General Comment No 15, para 24.

¹³⁶ Guiding Principles on Internal Displacement, Principle 18. 3.

¹³⁷ General Comment No 15, para 48; Principles and Guidelines on ESCR, Para 92, viii(h).

¹³⁸ Councillors representing women, youth and persons with disabilities shall be part of subcounty, city division and municipal division councils, which are responsible for the provision of drinking water. Such representation of the youth, persons with disabilities and women is also found in municipal and town councils, which has monitoring functions in addition to setting service delivery standards and approving building plans. Persons with disabilities are also represented at the district council and each parish and village administrative unit consists of the aforementioned groups as well as representation of older persons. Their participation is therefore ensured for activities carried out by the Councils where they are represented. Such activities include budgetary issues, as local governments formulate, approve and execute their budgets and plans. Local Governments Act, Sections 23, 54, 47 and 77.

Authority.¹³⁹ The Water Act and the Land Act also enable participation respectively through water user groups and water and sanitation committees,¹⁴⁰ and via communal land associations and land committees.¹⁴¹

In addition to the provisions that require adequate representation in certain committees or institutions, the legal framework also clearly articulates the concept of participation in the Constitution, the Local Governments Act, the Water Act and the National Environment Act. Participation is mainly enshrined as a principle that must be taken into account or be referred to by certain bodies. For example, the National Environment Management Authority must ensure the observance of the principles of environment management, which include “to encourage the maximum participation by the people of Uganda in the development of policies, plans and processes for the management of the environment”.¹⁴² The interests of minorities must be taken also into account in the making of national plans and programmes, as required by the Constitution.¹⁴³ Such provisions clearly show that participation is at least recognized as a principle that must be taken into account. A right to participate in affairs of government is also enshrined in the Constitution¹⁴⁴ and the Environment EIA regulations establish important procedures to ensure participation in relation to environmental impact assessments.¹⁴⁵

The importance of public participation can be also found specifically in relation to services provisions: the district council’s responsibilities in ensuring provision and maintenance of water supplies, as well as in relation to recurrent and development budget, are *subject to the principles* laid down under article 176(2) of the Constitution, which refer to the participation of citizens.¹⁴⁶ The wording of the Local Governments Act is however stronger in detailing the functions and services that fall under the responsibility of urban councils: functions and services related to public lavatories and urinals as well as water supplies outside the jurisdiction of the National Water and Sewerage Corporation *must* be undertaken with the participation of citizens.¹⁴⁷ Furthermore, the Water Act states that water and sewerage authorities “shall endeavour to provide [their] services to the extent and standards determined by the Minister and provide those services [...] in consultation with appropriate public authorities and relevant community groups”.¹⁴⁸

It can be noticed that the language used in these provisions refers sometimes to a direct obligation and sometimes to a principle. Although the level of consultation may vary, the legal framework should ensure active, free and meaningful participation by all in the provision of water and sanitation services regardless of the services provider. It should also articulate the stages of participation, which should take place at all levels of decision-making, including during the development of legislation, policies, programmes, plans, budgeting, service provision and monitoring of the right to water and sanitation. In relation to sanitation, the design of facilities, for example, requires to take into account the public’s needs. For this purposes, the law should articulate requirements for appropriate stakeholders, namely water and sewerage authorities and local governments, to invite the public to submit comments on strategies and plans regarding water and sewerage services and to ensure that due account is taken of the outcome of the public participation before the adoption of such documents or decisions. Regulations may be also used to specify the consultative management of communal water supply and sanitation services (*see e.g.* Kenyan Model Water Services Regulation, listed below). In the National Environment Act and its accompanying regulations, participation is mainly addressed in relation to environment impact assessments through the EIA regulations.¹⁴⁹

¹³⁹ The board of directors of the authority must be composed of representatives of local NGOs but also academic and research institutions. NEA, Second Schedule 1.

¹⁴⁰ Water Act, Section 51.

¹⁴¹ Land Act, Sections 15, 24 and 64.

¹⁴² NEA, Section 2(2)(b).

¹⁴³ Constitution, Art. 36.

¹⁴⁴ Constitution, Article 38.

¹⁴⁵ *See e.g.* NEA, section 19(8) and Environment EIA regulations, Section 21(2).

¹⁴⁶ Local Governments Act, Second Schedule, Part 2; Constitution, Article 176(2).

¹⁴⁷ Local Governments Act, Section 2(a) and (b); Part 3(1).

¹⁴⁸ Water Act, 47(2)(d).

¹⁴⁹ *See e.g.* NEA, section 19(8) and Environment EIA regulations, Section 21(2).

The current framework, through the Water Act and the addendum to the fourth performance contract with the NWSC (PCIV)¹⁵⁰, adequately translates the importance to ensure participation by the NWSC. The customer satisfaction index, targeted at 90% by the end of year 2 of the addendum, measures customers' satisfaction with NWSC services through independent surveys.¹⁵¹ Importantly, one of the assumptions related to this target is that the NWSC uses effectively the local water committees to enhance collaborations with communities and other stakeholders.¹⁵² Because participation is stated as an assumption of the performance scorecard in relation to customer satisfaction rather than a requirement that must be applied, it crucial to also introduce mechanisms or procedures that would ensure genuine participation. In addition, setting up clear positive requirements for public participation in regulations (statutory instruments) is essential as they would be applicable to all water and sewerage authorities. Similarly to access to information, use of appropriate language and meetings in locations that can be easily accessed are key elements to ensure active and meaningful participation. Use of highly technical terms or language not reaching the minorities would also prevent community participation.

2.4.4. Accountability as a procedural guarantee

Service providers and public officials must be accountable to users in order to ensure the realization of the right to water and sanitation. The right to effective remedy and oversight responsibilities are two elements which need to be taken into account in this regard.

The right to effective remedy is found in the Universal Declaration of Human Rights and is a principle of customary international law. Although not mandatory, it should be found in the State's constitution. Individuals or groups who allege that their rights have been violated should have access to effective judicial or other appropriate remedies at both national and international levels to have their complaints heard and solved.¹⁵³ States must furthermore raise awareness and make information on remedies available to all. Remedies provided for should include restitution, compensation, legally binding assurances of non-repetition and corrective action. National ombudsmen or human rights commission should be also permitted to address violations of the right to water and sanitation.¹⁵⁴

In relation to oversight responsibilities, the State must provide for mechanisms that establish oversight and control between both public and private actors in water and sanitation provision. Clear institutional mandates must be defined to build accountability into the entire system of water and sanitation provision. Actions taken or decisions made under those mandates must be accountable and regulated through a system of oversight responsibilities. Monitoring is essential in order to ensure that all actors can be held accountable. This is especially relevant when the provision of water and sanitation services is decentralized, in order to prevent fragmentation of responsibilities and a lack of coordination and control.

Accountability at the national level

As explained earlier, economic, social and cultural rights have been hardly justiciable in Ugandan Courts. In 2012, the case *CEHURD & Others v. Attorney General* on the right to health, absent from Chapter four but referred to in the preamble, was dismissed as the Court found that the complaint fell under the "doctrine of political question". The court adopted however a more liberal approach to these rights, as is brought to light in the High Court ruling *Center for Health, Human Rights and Development and Others v. Nakaseke District Local Administration*.¹⁵⁵ In that case, the right to health was found to be justiciable and therefore enforceable like any other rights in the Constitution and applicants were awarded damage. In this context, justifiability of economic, social and cultural rights is evolving, but it remains dependent on the willingness of the Courts to adopt and continue applying a progressive approach. This is especially the case for the right

¹⁵⁰ The fourth performance contract with the National Water and Sewerage Authority was not publicly available for evaluation.

¹⁵¹ NWSC, addendum to the Performance contract IV, Appendix II.

¹⁵² NWSC, addendum to the Performance contract IV, Appendix III, para 8.

¹⁵³ General Comment No. 15, para 55.

¹⁵⁴ Ibid.

¹⁵⁵ *The Center for Health, Human Rights and Development (CEHURD) and Others Vs Nakaseke District Local Administration*, Civil Suit No 111 of 2012.

to water and sanitation, as the Constitution as well as other water related laws do not contain an explicit clause that grants the human right to water and sanitation.

As regards the existence of accountability mechanisms and remedies in legal documents, the Constitution grounds a right to apply for redress and a right to apply to a court against administrative decisions.¹⁵⁶ The right to apply for redress is however linked to violations of fundamental rights and other freedoms guaranteed under the Constitution.¹⁵⁷ As explained earlier, mention of access to water is made in the preamble, but the fundamental law does not explicitly set out the right to water and sanitation.

To better ensure accountability in relation to water supply and sanitation services, the national legal framework should ensure that effective remedies are accessible (financially and physically) to all, by inserting provisions for this purpose in water related laws. The Land Act, for example, adequately contains explicit clauses allowing persons aggrieved by certain decisions to make a claim to the appropriate body.¹⁵⁸ Land tribunals are also established for this purpose and the Land Act recalls the possibility to proceed with customary dispute settlement and mediation.¹⁵⁹ The PHA, for its part, attributes the duty to local authorities to take all lawful, necessary and reasonable measures to prevent the occurrence of nuisances, some of which are directly related to water supply and sanitation services.¹⁶⁰ The Minister may, following a complaint and if satisfied after due inquiry that the local authority is guilty of default, make an order directing the local authority to perform its duty in the matter of the complaint.¹⁶¹ Conversely, a right to appeal all decisions of sewerage and water authorities is missing under the Water Act. Currently appeal to the minister is allowed against decisions taken under Part II of the Act, but the clause on general appeals does not concern decisions made under Part III concerning water supply and sewerage.¹⁶²

In general, oversight responsibilities for specific actors should be also framed to ensure better accountability in the sector. It can be noted that under the Water Act, water and sewerage authorities are required to report to the Minister responsible for water and natural resources on their achievements since the making of performance contracts or since the last report issued by the authority.¹⁶³ It is important to adequately articulate the obligations that relate to effective regulation and control of services providers. The Local Governments Act also states that monitoring of provision of services in divisions is under the responsibility of city or municipal councils.¹⁶⁴ Other general functions and responsibilities that relate to monitoring and regulation are found in the Local Governments Act.¹⁶⁵

The current legal framework gives important powers to institutions or bodies to bring legal actions against persons who are acting in contradiction with certain provisions¹⁶⁶ but no clear mechanisms are established to entitle the public to take such actions. In addition, there are no measures that strengthen the State's capacity to hold providers of water and sanitation services accountable. The Access to Information Act nevertheless requires public bodies to compile a manual containing information on, e.g., services available to the public, including description of remedies available in respect of an act or a failure to act by the body.¹⁶⁷ The National Water and Sewerage Corporation and the Ministry on Water and Environment are

¹⁵⁶ Constitution, Article 42.

¹⁵⁷ Constitution, Article 50.

¹⁵⁸ See e.g. Land Act, Sections 6, 13, 87.

¹⁵⁹ Land Act, Section 88.

¹⁶⁰ Public Health Act, Sections 59 and 60.

¹⁶¹ Public Health Act, Section 6(1).

¹⁶² Water Act, Section 38(1).

¹⁶³ Water Act, Section 48(2)é

¹⁶⁴ Local Governments Act, Second Schedule, Part 5(A).

¹⁶⁵ E.g. Control of development-enforcement of building rules is a responsibility that may be devolved by a city or municipal council to divisions. Local Governments Act, Second Schedule, Part 5(B).

¹⁶⁶ For example, the NEMA or the local environment committee can bring an action against anyone whose actions or omissions have or are likely to have a significant impact on the environment. It is also the responsibility of every local authority to take all lawful, necessary and reasonably practicable measures for preventing the occurrence of any nuisance listed under section 57 of the Public Health Act. Local authorities are required to take proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition. Public Health Act, Section 55; National Environment Act, Section 3(3).

¹⁶⁷ Access to Information Act, Section 7(2).

among others concerned by this clause.¹⁶⁸ It is crucial that such documents entail the conditions under which there is a possibility to appeal against the decisions of the bodies. Timely and effective remedies should be also available as a result of service level complaint procedure and clear procedures for customer complaint can lead to better accessibility of remedies.

One of the institution that may handle complaints regarding the access to water and sanitation services is the Uganda Human Rights Commission (UHRC). The Commission was created under the Constitution of Uganda. It gives the possibility to make a complaint on an alleged violation of the human right to water. The Commission undertakes its investigative functions after the reception of a complaint. It may order any legal remedy or redress, which may include compensations, directing another body to act, restitution, etc.¹⁶⁹ In addition, the Uganda National Human Rights Commission Act specifies that the institution's decisions shall have "effect as those of a court and shall be enforced in the same manner".¹⁷⁰ Two claims related to the right to water and sanitation were submitted to the Commission in 2015. Both are currently under investigation. The Equal Opportunity Commission and the Judiciary Service Commission have been also established but contrary to the UHRC, it does not appear that any complaint have been submitted in relation to water supply and sanitation services.¹⁷¹

2.4.5. Sustainability of water supply and sanitation services

Sustainability is essential to the realization of the right to water and sanitation. Conversely, the right to water and sanitation must be also realized through a sustainable manner in order to preserve it for present and future generations.¹⁷² Services must be provided in a way that respects the environment and ensures a balance of the different dimensions of economic, social and environmental sustainability. To this end, General Comment No. 15 explains that comprehensive and integrated programmes should be adopted, namely by reducing contamination of watersheds, monitoring water resources, increasing efficient use of water resources, reducing depletion of water resources through unsustainable extraction, diversion and damming, etc.¹⁷³ In fact, the obligation to fulfil includes facilitating improved and sustainable access to water, particularly in rural and deprived urban areas.¹⁷⁴

Moreover, in order to realize the right to health, States Parties to the African Charter have the cross-cutting obligation to "[p]rotect individuals and peoples against environmental, industrial and occupational hazards, preventing air, land and water pollution and alleviating the adverse effects of urban development, industrialisation, and global warming on ecosystems, livelihood and food security".¹⁷⁵ Growing pressure on water resources must be addressed in order to safeguard drinking-water quality for the present and future generations. A balance between domestic, industrial and agricultural needs and preservation and/or restoration of ecosystems are fundamental.¹⁷⁶

All States that have adhered to the African Convention for the Conservation of Nature agreed to "establish policies for conservation, utilization and development of underground and surface water".¹⁷⁷ In addition, contracting States

¹⁶⁸ A public body includes a government ministry, department, statutory corporation, authority or commission. Access to information Act, Section 4.

¹⁶⁹ Constitution, Article 53(2)(c).

¹⁷⁰ The Uganda Human Rights Commission Act, Section 7(2).

¹⁷¹ In 2015, the UHRC received two complaints in relation to the right to water and sanitation. Both complaints are currently under investigation by the Commission.

¹⁷² General Comment No. 15, para 11; *see also* Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, Art. 92 VII.

¹⁷³ General Comment No. 15, para 28.

¹⁷⁴ General Comment No. 15, para 26.

¹⁷⁵ Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, Art. 67 XIX.

¹⁷⁶ *See* Food and Agriculture Organization of the United Nations, *Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national security*, 2004, 8.11.

¹⁷⁷ African Convention on the Conservation of Nature and Natural Resources, Art. V. [Convention on the Conservation of Nature]

*shall endeavour to guarantee for their populations a sufficient and continuous supply of suitable water, taking appropriate measures with due regard to – (a) the study of water cycles and the investigation of each catchment area; (b) the co-ordination and planning of water resources development projects; (c) the administration and control of all water utilization; and (d) prevention and control of water pollution.*¹⁷⁸

The revised Convention, ratified by Uganda but not in force yet, requires contracting states to manage their water resources “so as to maintain them at the highest possible quantitative and qualitative levels”.¹⁷⁹ Other commitments are pollution control, due regard to integrated management of water resources, coordination and planning of water resources development projects,¹⁸⁰ etc. Generally, the objectives of the revised Convention are also to foster the conservation and sustainable use of natural resources.¹⁸¹

Ensuring sustainability through national legislation

The Constitution contains important environmental provisions that call for a sustainable management of natural resources, most of which are found in the section on national objectives and directive principles of State policy.¹⁸² Chapter four of the Constitution enshrines the right to live in a healthy environment,¹⁸³ which implies that positive measures are needed in relation to the sustainability of water resources. Without such measures, it would be difficult to fulfil the right to healthy environment.

In line with the Constitution, the parliament must also provide, by law, for measures intended to protect and preserve the environment from abuse, pollution and degradation, to manage the environment for sustainable development; to promote environmental awareness.¹⁸⁴ The Water Act and the National Environment Act are two legal instruments that have been adopted for this purpose. The sustainability principle is indeed enshrined in the objectives of the Water Act.¹⁸⁵ Key powers in relation to sustainability are given to the Minister responsible for water or natural resources, the director of water development and water and sewerage authorities to prevent water shortages in given areas. These are mainly the power to make changes to water permits and regulate the use of water.¹⁸⁶ Yet, the Water Act does not oblige governmental actors to take measures in case of water shortages. It also does not require to establish any water allocation plan in such circumstances or to avoid such circumstances,¹⁸⁷ but this may be in fact incorporated in the plans that must be issued under the National Environment Act. It can be also expected that the National Water Plan address such issues, as the plan should be prepared among others for the control, protection and management of water for the nation.¹⁸⁸ The exact components are however not specified in the Act and are to be established by the Minister responsible for water resources or the Water Policy Committee. Most of the sustainability measures thus depend on the key governmental actors and the National Water Action Plan. Water authorities are also required to “endeavour” to provide their services in a “socially and environmentally responsible manner”.¹⁸⁹

The Environmental Act additionally devolves most of the duties related to sustainability to the National Environment Management Authority (NEMA). NEMA is tasked with the duty to issue guidelines for the management and protection of the environment and natural resources, which must be contained in the

¹⁷⁸ Conservation on the Conservation of Nature, Art. V.

¹⁷⁹ Revised African Convention on the Conservation of Nature and Natural Resources, Art. VII. [Revised Convention on the Conservation of Nature]

¹⁸⁰ Conservation on the Conservation of Nature, Art. V; Revised Convention, Art. VII.

¹⁸¹ Revised Convention on the Conservation of Nature, Art. II(2).

¹⁸² Constitution, National Objectives and Directive Principles of State Policy, XIII, XXI and XXVII.

¹⁸³ Constitution, Article 39.

¹⁸⁴ Constitution, Article 245.

¹⁸⁵ *E.g.* Water Act, Section 4(a), (c) and (d).

¹⁸⁶ Water Act, Section 8 and 12.

¹⁸⁷ The Minister *may* however, at times of shortage or anticipated shortage, on the advice of the Water Policy Committee, declare any part of Uganda to be a controlled area and establish a comprehensive and integrated plan for managing among other elements water within that area. Water Act, Section 8(1)(c)(iii).

¹⁸⁸ Water Act, Section 16.

¹⁸⁹ Water Act, Section 47.

National Environment Action Plan. The plan is prepared by NEMA and is binding upon all persons and all Government departments, agencies and organs.¹⁹⁰

The Public Health Act also indirectly contributes to the sustainability of water resources by encompassing measures that seek to prevent water pollution,¹⁹¹ although this is aimed at preventing pollution that is dangerous to health. The quality of subsoil water, which can be used for drinking and domestic purposes, can be also positively impacted by the measures found in the Public Health (Building) Rules. These require that a medical officer of health approves the establishment of a habitable building, on swampy sites, served by a pit latrine that is not ten feet above the maximum level of the subsoil water. In addition, it is required that any pit latrine into which subsoil water rises within ten feet of its surface has its walls suitably reinforced.¹⁹² Because deep subsoil water may be used to supply localities with water, such safeguards may positively affect sustainability and quality of water.

Yet, in spite of the positive measures found in the legal framework discussed in this report, sustainability of water resources depends on other laws due to its linkage to numerous sectors. By way of illustration, extraction of some natural resources may affect the sustainability of water in certain communities. Safeguards that are found for example in the Mining Act or other laws must be therefore also adequately assessed before adopting legal measures that seek to address the sustainability principle.

2.5. The normative content of the human right to water and sanitation

The human right to water and sanitation comprises key criteria, which, together with the related procedural guarantees, detail the legal content and scope of this right. The present section explains the accessibility, affordability, availability, quality and acceptability criteria and seeks to determine how each of them is enshrined in the national legal framework.

2.5.1. The accessibility criterion of the right to water and sanitation

One of the core obligations in relation to the right to water and sanitation that is of immediate effect is to ensure physical access to water and sanitation facilities or services. These must provide sufficient, safe and regular water, have a sufficient number of water outlets to avoid prohibitive waiting times, and be at a reasonable distance from the household, education institution and workplace.¹⁹³ Time and distance taken to collect water and to reach sanitation facilities impact on the amount of water that users are able to collect and whether they will use sanitation facilities. The State should set minimum standards on the location of water and sanitation facilities. These may be determined with the help of international minimum standards but the highest standard and progressive improvement should be always aimed for by the State.

During access to the facilities and services, physical security should also not be threatened.¹⁹⁴ Safe paths to get to the facilities, but also safe technical structure are important to ensure physical security for all users, including at night.¹⁹⁵ The knowledge of the community is essential to determine a location that is safe and easily accessible for all and at all times.

Finally, access to water and water facilities should be ensured for everyone without discrimination. Water and sanitation facilities must be also designed by taking into account persons with particular needs, such as older persons, children, but also persons with disabilities. Pursuant to its ratification of the CRPD, Uganda is required to take appropriate steps to safeguard and promote the right to an adequate standard of living,

¹⁹⁰ NEA, Section 17. *See also* NEA, Sections 34 and 37.

¹⁹¹ The Public Health Act assigns a duty to every local authority to “take all lawful, necessary and reasonably” practicable measures for preventing pollution that is dangerous to health of any supply of water which the public within its district has a right to use for drinking or domestic purposes. Public Health Act, Section 103(a).

¹⁹² Public Health (Building) Rules, Section 25.

¹⁹³ General Comment No. 15, para 37(c); *see also* Charter guidelines, which recall that the human right to water entitles everyone to physically accessible water for personal and domestic uses. Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, para 88-89.

¹⁹⁴ General Comment No. 15, para 12(c).

¹⁹⁵ Human Rights Council, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/12/24, 1 July 2009, para 73.

among others by taking measures to ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs.¹⁹⁶ Interior space, hand rails, size of the sanitation facilities, but also mechanisms to extract water from pipes or wells are aspects that can be considered to better suit all users.¹⁹⁷

The accessibility criterion in the national legal framework

The accessibility criterion of the right to water and sanitation is touched upon in the national legal framework, but not all the related elements are enshrined in the main legislation. The Constitution incorporates a section on the responsibility of the State to ensure access to water,¹⁹⁸ but the water-related legislation does not sufficiently elaborate the accessibility criterion.

For example, the law does not required that all the elements linked to accessibility, such as safety, distance or time must be provided for. The Water Act should ensure that everyone has access to water and sanitation and that alternative ways of water supply are secured for all users when, for example, the location of the authority's work is altered. The location of the sources must be within a reasonable distance, be safely accessible and reachable within reasonable time. Currently, the Water Act authorizes use of water and access to water sources,¹⁹⁹ but would need to provide positive measures for ensuring access to water to everyone and a comprehensive framework for the implementation of the right. The PHA defines improper, insufficient or lack of wholesome water supply, not available within a reasonable distance, as a nuisance that is prohibited.²⁰⁰ By giving the duty to local authorities to take reasonable and practicable measures to prevent the occurrence of any nuisance,²⁰¹ it can be understood that it falls under their responsibility to ensure access to water within a reasonable distance as in the circumstances it is possible to obtain. It is however unclear how this is implemented and monitored under the Public Health Act, to ensure that no one suffers such nuisance.

A clause on the safety of the area, where all water and sanitation facilities are located, is also essential. It is particularly necessary to ensure that the establishment and revision, as appropriate, of national and regional targets to reduce distance to water points and toilet are regulated. Basic standards both for water and sanitation services are for this purpose crucial. Although such standards can be listed in policies, use of regulations is important to ensure that minimum standards can be enforced.

The accessibility criterion should be particularly looked at in the realization of the right to water and sanitation for persons who face accessibility problems. The Persons with Disabilities Act attributes the responsibility to provide universal standards or designs of public toilets to all organs in an institution.²⁰² This clause however does not clearly require that all appropriate institutions provide for the accessibility to toilets and sanitation facilities to persons with disabilities in accordance with universal standards.

Finally, few water related provisions in the Land Act are also noteworthy. In the context of land scarcity, drought and increased population density, a need to revert to customary rules occurred previously for some groups of people in order for them to access water resources where a household did not directly hold any.²⁰³ Customary land that is governed on customs and practices presupposes that if a community for example has been fetching water on a given land, it is a practice that those people cannot be denied the right to access.²⁰⁴ In all cases, what remains essential, is that everyone has access to water and sanitation, regardless the form of land tenure. The law should also ensure that land ownership does not prevent water authorities from providing safe water, such as through pre-paid water meters or similar installations.

¹⁹⁶ CRPD, art. 28(2)(a).

¹⁹⁷ Human Rights Council, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/12/24, 1 July 2009, para 76.

¹⁹⁸ Constitution, National Objectives and Principles of State Policy, Section XIV.

¹⁹⁹ Water Act, Section 7.

²⁰⁰ Public Health Act, Section 57(q).

²⁰¹ Public Health Act, Section 55.

²⁰² Persons with Disabilities Act, Section 19.

²⁰³ On this, see e.g. Susana Lastarria-Cornhiel, Uganda Country Brief: Property Rights and Land Markets, Land Tenure Center, 1999. Available at: <http://www.nelson.wisc.edu/lrc/docs/ugandabrief.pdf>.

²⁰⁴ See e.g. Land Act, Section 27 and Registration of Titles Act, Sections 64(2) and 65.

2.5.2. Affordability of water supply and sanitation services

Water and sanitation facilities and services must be affordable for all.²⁰⁵ This means that both direct and indirect costs and charges associated with securing water must be affordable, and “must not compromise or threaten the realization of other Covenant [ICESCR] rights”²⁰⁶ because human rights are interdependent and interrelated. Affordability of the price of water belongs to the State’s obligation to respect and fulfil the right to water and sanitation, and discriminatory and unaffordable increases in the price of water consist of an interference with the right.²⁰⁷ In situations “where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising [...] equal, affordable access to sufficient, safe and acceptable water.”²⁰⁸

As explained earlier in the first part, arbitrary or unjustified disconnections from water services amount to a violation of the obligation to respect the right to water and sanitation. In this context, where any action that interferes with an individual’s right to water is based on a person’s failure to pay for water, the person’s capacity to pay must be taken into account. This applies to situations where the action is carried out by the State party as well as by any other third party. To comply with this obligation, the authorities are required among others to ensure opportunity for genuine consultation with those who are affected by the action.²⁰⁹

Apart from respecting and protecting the right to water and sanitation in relation to affordability, States are also required to adopt positive measures to ensure that water is affordable. These may consist of a range of appropriate low-cost techniques and technologies, appropriate pricing policies such as free or low-cost water, and income supplements.²¹⁰ General Comment No. 15 also states that “any payment for water services has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups.”²¹¹

The articulation of the affordability criterion in the national legal framework

The principle of affordability needs to be reflected more exhaustively in the main legal framework pertaining to water and sanitation. The Water Act tackles this principle through a provision on recovery of capital cost which offers an alternative way to defray amounts payable to authorities when that payment would cause undue hardship.²¹² Because this provision applies only to the costs of acquiring or constructing works, it is important to extend its scope and cover tariffs for water supply, regular charges and fees, including maintenance charges.

The Water Act’s provisions on tariffs and revenue do not further encompass the affordability criterion nor equity, and these are not reflected in the clauses for non-payment. What is more, the law allows disconnections of water supply for cause of non-payment without requiring that a specific process is followed prior the disconnection.²¹³ Although it is necessary to ensure that water and sewerage services are financially sustainable, and despite the fact that international law does not prohibit disconnections of services as such, there are conditions and limits that frame the legality of disconnections. As specified in the General Comment No. 15, “under no circumstances shall an individual be deprived of the minimum essential level of water”.²¹⁴ When water supply is restricted or disconnected, such as under section 95(2)(c), the capacity to pay of the user must be taken into account. Disconnections due to a lack of financial means shall not be allowed by law when, as a result, the affected persons are deprived of the minimum essential

²⁰⁵ General Comment No. 15, para 2 and 12; Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People’s Rights, para 88-89.

²⁰⁶ General Comment No. 15, para 12.

²⁰⁷ General Comment No. 15, para 44.

²⁰⁸ General Comment No. 15, para 24.

²⁰⁹ General Comment No. 15, para 56.

²¹⁰ General Comment No. 15, para 27.

²¹¹ Equity demands that poorer households should not be disproportionately burdened with water expenses as compared to richer households. General Comment No. 15, para 27.

²¹² Water Act, Section 54.

²¹³ Water Act, Section 94.

²¹⁴ General Comment No. 15, para 56.

level of water. Clear procedures are therefore needed to ensure that no arbitrary disconnections occur and effective remedies should exist, as discussed earlier in relation to the accountability principle.

Currently, as authorized under section 94 of the Water Act, the National Water and Sewerage Corporation Act entitles the corporation to “set tariffs and charges, make and levy rates and fix terms and conditions for work done or services, goods or information supplied by it”.²¹⁵ No reference to affordability is however found, although the Corporation’s functions shall be carried out “with a view to providing its services efficiently and economically” and “to exercising its powers in accordance with any national action plan adopted under the Water Act and with the economic, social and environmental policies of the Government”.²¹⁶ The mandatory respect of the affordability criterion thereby depends on the content of the national action plan and policies of the Government in addition to its corporate plan, performance contract and regulations.²¹⁷ The National Water and Sewerage Corporation Act requires that each corporate plan states the basis on which tariffs, rates and charges are expected to be raised, as well as the financial strategies, including the setting of tariffs and charges.²¹⁸

It is essential to ensure that a general safeguard for the affordability of water and sanitation services is found in the law, especially the Water Act. This should cover the tariffs fixed and revenue collected by all actors addressed in the Water law, such as water authorities or water user groups. Currently, one of the indicators found in the addendum to the fourth performance contract with the NWSC measures the extent of service to the poor through provision of kiosks and public stand post connections. The pro-poor connections were projected to grow at a rate of 2% annually from 2012 to 2015. The projections were based on the following assumptions:

- Continued operationalisation of the urban-poor branch in Kampala rolling out of the Urban Poor project to the rest of other areas
- Timely implementation of the urban poor projects and other planned investments as presented in Appendix VI.²¹⁹

This applies however only to the NWSC. Finally, it is important to recall that even when the implementation of the right to water is delegated to local authorities, the State must ensure that they have at their disposal sufficient resources to maintain and extend the necessary services and facilities.²²⁰ Currently, article 193 of the Constitution details how the Consolidated Fund is used for the payment of unconditional, conditional and equalization grants to local governments.²²¹ Unconditional grants are paid to local governments to run decentralized services. Programmes agreed upon between the government and the local governments can be financed by conditional grants. As for equalization grants, they consist in the money to be paid to local governments for giving subsidies or making special provisions for the least developed districts. They are based on the “degree to which a local government unit is lagging behind the national average standard for a particular service”. The Local Government Finance Commission considers and recommends to the President the amount to be allocated as the equalization and conditional grants and their allocation to each local government.²²² It is essential to ensure that such grants, especially unconditional grants, include money for water and sanitation services.

2.5.3. Availability of drinking water supply and sanitation services

The normative content category of ‘availability’ means that water and sanitation must be accessible to everyone in the household or its immediate vicinity, in sufficient quantity and on a continuous basis, for

²¹⁵ National Water and Sewerage Corporation Act, Section 5(2)(b).

²¹⁶ National Water and Sewerage Corporation Act, Section 4(3)(a).

²¹⁷ National Water and Sewerage Corporation Act, Section 4(2)(b)(ii).

²¹⁸ National Water and Sewerage Corporation Act, Section 21.

²¹⁹ NWSC, addendum to the Performance contract IV, Appendix III, para 11.

²²⁰ General Comment No. 15, para. 51.

²²¹ Constitution, Article 193.

²²² Constitution, Article 194(3)(b).

personal and domestic use. Importantly, "under no circumstances shall an individual be deprived of the minimum essential level of water."²²³

To ensure sufficient water, each person has the right to adequate and continuous water supply for its personal and domestic use.²²⁴ Regularity of water supply is therefore required for those uses,²²⁵ which consist of "drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene".²²⁶ Marginalized groups of people must be also protected, among others by the adoption of relatively low-cost targeted programmes.²²⁷ In addition, States have to progressively extend safe sanitation services "particularly to rural and deprived urban areas, taking into account the needs of women and children."²²⁸

During armed conflicts, natural disasters or emergencies, States are also bound by international humanitarian law. Protection of drinking water installations and supplies and irrigations works fall therefore under the responsibility of the State to ensure survival of the civilian population.²²⁹ Another important element of availability is priority in the allocation of water, which must be given to personal and domestic uses.²³⁰

The following sub-section offers an overview of how the availability criterion is articulated in the national legal framework. It addresses the water availability including its relation to water allocation, as well as the priority to domestic use and continuous services.

Articulation of the availability criterion in the national legislation

The national objectives and principles of State policy that are enshrined in Uganda's fundamental law require the State to "take all practical measures to promote a good water management system at all levels" and to "institute an effective machinery for dealing with any hazard or disaster arising out of natural calamities or any situation resulting in general displacement of people or serious disruption of their normal life."²³¹ A good water management system as well as an "effective machinery" for dealing with hazards may in fact lead to availability of drinking water for the population, including in situations arising from environmental disasters.

By enunciating the responsibilities of governmental actors in relation to specific activities, such as water supply and sanitation services, the Local Governments Act further tackles the availability criterion of the right to water and sanitation. The responsibilities are fragmented as different aspects of water supply and sanitation services fall under different decentralized governments. Water and natural resources are under the responsibility of the Government, but a district council or a lower council may request to be allowed to exercise functions and services related to it.²³² The Local Governments Act devolves the following functions and responsibilities to the local governments:²³³

²²³ General Comment No. 15, para 56.

²²⁴ Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, para 88-89.

²²⁵ General Comment No. 15, para 12.

²²⁶ General Comment No. 15, para 12(a); Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, para 89.

²²⁷ General Comment No. 15, para 37.

²²⁸ General Comment No. 15, para 29.

²²⁹ General Comment No. 15, para 22.

²³⁰ General Comment No. 15, para 6; see also ACHPR, Resolution 2015, ACHPR/Res.300 (EXT.OS/XVII). Available at: <http://www.achpr.org/sessions/17th-ao/resolutions/300/>.

²³¹ Constitution, Principle and Objectives, XXI and XXIII

²³² Local Governments Act, Section 31(1).

²³³ Local Governments Act, Second Schedule.

Table 5. Responsibilities and functions of local governments in relation to water and sanitation

	Functions and responsibilities
District and city councils ²³⁴	Provision and maintenance of water supplies (in liaison with the Ministry responsible for natural resources where applicable); Medical and health services, including health education and environment sanitation; All decentralised services and activities which include wetlands, district planning, local government development planning, recurrent and development budget and district information services.
Urban councils	Establish, acquire, erect, maintain, promote, assist or control with the participation of the citizens: - public lavatories and urinals; - sanitary services for the removal and disposal of night soil, rubbish, carcasses of dead animals and all kinds of refuse and effluent; - water supplies outside the jurisdiction of the National Water and Sewerage Corporation; Lay out land and provide and maintain necessary public services.
In rural areas: Functions and services that may be devolved by a district council to lower local government councils	The provision of hygiene services and health units other than health centres; Protection and maintenance of local water resources; The enforcement of: - standards of building and standards of maintenance of buildings, including dwelling houses, latrines, kitchens and stables for animals; - proper methods for the disposal of refuse, and the making, improving, operation and maintenance of wells, dams and other water supplies.
Functions and services that cannot be devolved to the divisions	Setting of service delivery standards; Monitor the general administration and provision of services in divisions; Construction and maintenance of major drains; Approval of building plans.
In urban areas: Functions and services that may be devolved by a city or municipal council to divisions	Spring protection and provision of drinking water; Control of development-enforcement of building rules; ²³⁵ Environmental care and protection; Youth, persons with disabilities, women and sports.

The Water Act further aims to promote the provision of a clean, safe and sufficient supply of water for domestic purposes to all people.²³⁶ However, it does not refer to decentralization but seeks instead to ensure the coordination, allocation and delegation of responsibilities among Ministers and public authorities for the investigation, use, control, protection, management or administration of water resources.²³⁷ In fact, the Act would need to characterize the availability criterion and frame to a greater extent its articulation. The national action plan may provide additional guidance on this, but the Water Act

²³⁴ For the purposes of the Local Governments Act, a city is equivalent to a district and a city council shall exercise all functions and powers conferred upon a district council within its area of jurisdiction. Local Governments Act, Section 4(a).

²³⁵ Building rules include obligations related to sanitation facilities, as seen in the Public Health Act. A municipality council or city sets the service delivery standards and approves building plans in addition to monitoring the general administration and provisions of services in divisions. It is however unclear which local government holds these functions in rural areas.

²³⁶ Water Act, Section 4(b).

²³⁷ Water Act, Section 4.

hands out the responsibility to establish the components of the Water action plan to the Minister responsible for water or natural resources (Minister) or the Water Policy Committee.²³⁸

Currently, the Act tackles the availability criterion primarily by empowering the director to vary water permits in case of water shortage in a given area or imposing limitations on use of water at times or shortage or where the situation so requires.²³⁹ The Act also requires the Minister to establish water and sewerage authorities in water supply and sewerage areas. Once established, water and sewerage authorities have the function to provide water and sanitation services, as required in the performance contract or declaration establishing the authority.²⁴⁰ It is however important that adequate water supply and sanitation services are offered in all water and sewerage areas. To this effect, the law should already set guidelines, standards or criteria that must be followed by all authorities and which may be further specified or adjusted in each performance contract, to the extent permitted by law. This would simultaneously set effective regulations of service providers.

Based on the Water Act, it is also unclear how water availability is ensured by law for land owners who are not connected to an authority's work or how availability of water and sanitation services is ensured in situations where no piped sewerage or water systems are available. Although there is a possibility to apply to the authority to extend existing works,²⁴¹ the Act does not oblige the authority to accept the request, nor does it require to guarantee other means of water supply and sanitation services. The Water Act should therefore clearly ensure that adequate steps are taken to ensure water availability for all, and that the discretion of the authority in relation to connecting a land owner or occupier to an authority's work is regulated. Alternative ways to ensure water availability, when applicable, are also essential.

The Public Health Act, on its turn, clearly prohibits certain nuisances or condition liable to be injurious or dangerous to health. Insufficient sanitation facilities and lack of wholesome water supply within a reasonable distance are among the nuisances listed in the Act.²⁴² The duty to prevent such nuisance to remedy and prevent such nuisance to occur is devolved to every local authority in its respective area.²⁴³ Protection is also provided for in the Act, by forbidding any person to cause such nuisance and obliging local authorities to take legal proceedings against any person who cause or who are responsible for the continuance of any such nuisance.²⁴⁴ In addition, both new and old buildings are required to have adequate latrines, otherwise the local authority will reject building plans of new buildings or extensions or require an owner of a building to provide for additional latrines as may be necessary.²⁴⁵

It should be clearer how availability is protected, respected and fulfilled, especially for the persons living outside a water or sewerage area. For sanitation services, however, the framework is stronger: the Water Act requires that all new buildings are connected to sewerage works²⁴⁶ and under the Public Health Act plans of new buildings may be rejected when provision of among others waste water drainage is unsatisfactory.²⁴⁷ National actions plans on water and the environment could enshrine information on the allocation of water to ensure water availability for domestic uses to all.

Prioritizing use of water for domestic purposes

Priority to domestic use is implicitly found in the objectives of the Water Act. Objective (b) emphasises the promotion of water for domestic purposes to all persons, whereas objective (c) allows the use of water resources for "purposes other than domestic use".²⁴⁸ In addition, subsection 7(1) allows a person, while temporarily at any place, or while "being the occupier of or a resident on any land where there is natural source of water" to "use that water for domestic use, fighting fire or irrigating a subsistence garden".

²³⁸ Water Act, Section 16.

²³⁹ Water Act, Sections 8 and 22.

²⁴⁰ Water Act, Section 47.

²⁴¹ Water Act, Section 72.

²⁴² Public Health Act, Section 57.

²⁴³ Public Health Act, Section 55.

²⁴⁴ Public Health Act, Sections 54 and 55.

²⁴⁵ Public Health Act, Sections 85 and 88.

²⁴⁶ Water Act, Section 64.

²⁴⁷ Public Health Act, Section 84.

²⁴⁸ Water Act, Section 4(b) and (c).

Domestic use is to be understood as including use for the purpose of:

- (i) *human consumption, washing and cooking by persons ordinarily resident on the land where the use occurs;*
- (ii) *watering not more than thirty livestock units;*
- (iii) *irrigating a subsistence garden; and*
- (iv) *watering a subsistence fish pond.*²⁴⁹

This enumeration may imply a hierarchy of use, but can be also interpreted as only enunciating the authorization to use water in certain circumstances for domestic uses, which are understood as including the four uses above. It would be preferable to clearly prioritize the right to water to all for domestic and personal purposes over agricultural and industrial uses, through a hierarchy of uses.

Although the National Environment Act does not address the availability criterion as such, it nevertheless attributes the duty to NEMA to prepare guidelines or plans for coordinating national responses to environmental disasters.²⁵⁰ This may also entrench an action plan to ensure sufficient water for affected populations. The legal framework should nevertheless clarify water availability in the context of disaster risk reduction/climate change. This also links to participation, especially in relation to community resilience planning in situations of water scarcity.

Continuous services

Finally, as detailed under Uganda's international commitments, continuous supply is required for each person's personal and domestic use. Currently, the Water Act allows the Minister responsible for water and natural resources to regulate water uses and ensure that sufficient water is available by varying water permits.²⁵¹ Such measures may also ensure sustainable use of water resources as explained earlier. However, these sections of the Water Act do not provide for an obligation to take measures to ensure sufficient water availability in situations where water use is permanently or temporarily prohibited. Water and sewerage authorities are also generally authorized to alter the capacity of any works and regulate the consumption of water supplied.²⁵² Water authorities may also restrict quantity of the supply of water in certain cases.²⁵³

Conversely, a sewerage authority is not allowed to temporarily discontinue or prohibit the use of any sewer unless such action is carried out in order to install, maintain or repair any works, make any connection to or disconnection from a sewer, or prevent the escape of sewage or the pollution of any water.²⁵⁴ The law should frame more exhaustively the regulation of the prohibitions, discontinuations or restrictions of consumption of water supplied, to ensure continuous supply of water for domestic purposes. When there is a lack of capacity to deliver water continuously, laws could regulate interruptions. Minimum amounts should be also set in regulations.

Currently, the addendum to the NWSC fourth performance contract addresses the need to ensure continuous water supply, by setting targets which contain assumptions of an average supply time of 20 hours.²⁵⁵ These are however only assumptions and not clear targets that must be achieved, and are applicable to services provided by the National Water and Sewerage Corporation. Also at this level the law should already set guidelines, standards or criteria that must be followed by all authorities and which may be further specified or adjusted in each performance contract, to the extent permitted by law. This would ensure that the availability component is anchored in the law and not only in some performance contracts.

²⁴⁹ Water Act, section 2.

²⁵⁰ NEA, Section 66(1).

²⁵¹ Water Act, Section 8 and 22.

²⁵² Water Act, Section 61.

²⁵³ Water Act, Section 82(1).

²⁵⁴ Water Act, Section 62(3).

²⁵⁵ NWSC, addendum to the Performance Contract IV, paras 7 and 8.

2.5.4. Quality of water supplied and sanitation services

Water and sanitation services should be provided in such a way as to protect the health of users and the general public. A core obligation that is of immediate effect is the obligation to ensure access to the minimum essential amount of water that is sufficient and safe for personal and domestic uses to prevent diseases.²⁵⁶ Also in relation to children under the CRC, States are required to take appropriate measures to combat disease and malnutrition among others through the provision of clean drinking water, taking into consideration the dangers and risks of environmental pollution.²⁵⁷

In this context, water must be safe for human consumption and for personal and domestic hygiene. It must be free from microorganisms, chemical substances and radiological hazards that constitute a threat to a person's health.²⁵⁸ States may refer to international guidelines to develop and implement their quality standards. The WHO Guidelines for drinking-water quality,²⁵⁹ for example, may serve as guidance. In relation to sanitation, facilities must effectively prevent human, animal and insect contact with human excreta to allow a hygienically safe use. This implies regular cleaning, emptying of pits, or other places that collect human excreta, as well as maintenance for ensuring the sustainability of sanitation facilities and continued access.²⁶⁰

Water quality is indeed closely related to sustainability. African Union Member States were in fact urged by the African Commission on Human and People's Rights to protect the quality of water resources and the entire riverine ecosystem.²⁶¹ Such actions have a positive impact on drinking water quality.

The quality criterion in the national legal framework

The Ugandan Constitution requires the State to ensure access to clean and safe water for all Ugandans, and take measures to prevent damage to water resources.²⁶² These two elements are listed as national objectives and directive principles of State policy and similar references are found in the water-related laws.

In terms of the provision of water to citizens, the Water Act aims at promoting the provision of clean and safe supply of water. A water or sewerage authority must in fact provide its services with the quality that is required by regulations or by a performance contract,²⁶³ and endeavour to provide them to the extent and standards determined by the Minister responsible for water and natural resources.²⁶⁴ The addendum to PCIV obliges the NWSC to "carry out its statutory functions with the aim of achieving the agreed performance targets which are listed in Appendix II to the agreement".²⁶⁵ The achievement of these targets are in addition the contract deliverables by the NWSC.²⁶⁶ One of the targets is compliance with National Standard for Drinking (portable) water of 2006, which was set for the second year (2014) at 98% of compliance. This is based on the amount of samples that pass the national standards. Reports from Water Quality and DWR serve as means of verification.²⁶⁷ It is yet important to highlight that these targets apply only to the NWSC. The current framework does not explicitly refer to standards adopted by the Uganda National Bureau of Standards (UNBS) for areas outside NWSC. Water regulations that set standards have also not been adopted, although waste discharge regulations do exist.

²⁵⁶ General Comment No. 15, para 37(a); *see also* Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, para 88-89.

²⁵⁷ CRC, art. 24(2)(c).

²⁵⁸ General Comment No. 15, para 12.

²⁵⁹ World Health Organization, *Guidelines for drinking-water quality*, 2011, fourth edition, available at: http://www.who.int/water_sanitation_health/publications/2011/dwq_guidelines/en.

²⁶⁰ Human Rights Council, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/12/24, 1 July 2009.

²⁶¹ ACHPR, Resolution 2015, ACHPR/Res.300 (EXT.OS/XVII). Available at: <http://www.achpr.org/sessions/17th-eo/resolutions/300/>.

²⁶² Constitution, Objectives and principles, XIV and XXVII(ii).

²⁶³ Water Act, section 49

²⁶⁴ Water Act, section 47(2).

²⁶⁵ NWSC, addendum to the Performance Contract IV, 8.

²⁶⁶ NWSC, addendum to the Performance Contract IV, 6.

²⁶⁷ NWSC, addendum to the Performance Contract IV, Appendix II – Performance Scorecard 2012-2014.

Nevertheless, the UNBS enacting Act entitles the Minister responsible for commerce to declare “a standard specification for any commodity or for the manufacture, production, composition, blending, processing or treatment of any commodity to be a compulsory standard specification”.²⁶⁸ The UNBS water standards contain requirements as well as for factors affecting organoleptic and physical characteristics, as well as microbiological and chemical requirements.²⁶⁹ The present study could not establish whether the Drinking (portable) water standard were declared to be a compulsory standard specification.

As regards the other laws, the National Environment Act requires the National Environment Management Authority to set minimum water quality standards, including for water used for drinking purposes.²⁷⁰ The Public Health Act also adequately prohibits various nuisances which are related to the quality of water and sanitation. Many sanitary facilities must be adequately constructed, so as not to be injurious or dangerous to health, and factories must be adequately ventilated and free from offensive smells that could arise from urinals or water closets.²⁷¹

In addition to these measures, it is important to ensure that sanitation facilities are constructed in such a way as to prevent contact with excreta. This may be monitored or regulated through the process that is place in relation to the approval of building plans.

Obligations to inform appropriate public authorities of any important risks to the water supply and to adopt safety management plans should be found in the law. Currently, the National Standard on Drinking (potable) water require drinking water systems operators to develop, implement and maintain a water safety plan taking into consideration the potential risks to the safety of the water from the supply catchments to the consumer.²⁷² It also specifies the key components that must be part of a water safety plan and presents surveillance requirements.²⁷³ As explained earlier, the Drinking (potable) water standards are referred to in the addendum to the fourth performance contract with the NWSC. There is however no obligation directed to the NWSC in terms of monitoring and safety plans found in the water standard document. It only mentions that NWSC is expected to achieve 98% compliance with the quality target, which includes among others the following assumption: continued standardisation and modernisation of the water quality monitoring systems. In addition, the definition of key terms refers only to the number of samples passing the national standards, which could not lead to the evaluation of the safety plan and monitoring mechanisms. It is also important to recall that the current framework does not explicitly refer to standards adopted by the Uganda National Bureau of Standards (UNBS) for areas outside NWSC and in light of the present study, it is unclear whether they must be always complied with by other water providers.

2.5.5. The acceptability criterion of the right to water and sanitation

The human right to water entitles everyone to acceptable water for personal and domestic uses.²⁷⁴ Acceptable colour, odour and taste are of particular importance to prevent the population to resort to unsafe alternatives. In this context, it is vital to take into account the cultural needs and preferences of users and ensuring participation of the public for this purpose.

In light of its signature of the eThekwini Declaration (2008), Uganda has in fact committed to “recognize the gender and youth aspects of sanitation and hygiene, and involve women in all decision making levels so that policy, strategy and practice reflect gender sensitive approaches to sanitation and hygiene”.

Closely linked to non-discrimination and accessibility, facilities need to be designed such a way, and be in such conditions as to correspond to the preference of users. This may include the need to ensure privacy,

²⁶⁸ Uganda National Bureau of Standard Act, Section 18.

²⁶⁹ Uganda Drinking (potable) water – Specification (2nd edition), US 201 (2008).

²⁷⁰ Environment Act, Section 25.

²⁷¹ Public Health Act, Sections 54 and 57.

²⁷² Uganda Drinking (potable) water – Specification (2nd edition), US 201 (2008), para 5.1.

²⁷³ Uganda Drinking (potable) water – Specification (2nd edition), US 201 (2008), paras 5 and 6.

²⁷⁴ Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and People's Rights, para 88-89; General Comment No. 15, para 2.

separate facilities for women and men in public places, as well as boys and girls in schools, but also toilets that accommodate menstruation needs.²⁷⁵

Articulation of the acceptability criterion in Uganda's national legal framework

Uganda's main legal framework pertaining to water and sanitation refers to cultural diversity,²⁷⁶ and the acceptability criterion is captured in the Public Health Act, which requires separation of toilets for women and men in work places.²⁷⁷ The legal framework would however need to further address the acceptability criterion although the National Standard on Drinking (potable) water incorporates requirements for factors affecting organoleptic and physical characteristics, two of which must be acceptable to consumers: taste and odour.²⁷⁸ As stated in the section on quality of water supply and sanitation services, the present study could not establish whether the Drinking (portable) water standards were declared to be a compulsory standard specification, as possible pursuant to the UNBS Act. The standards are clearly referred to at least in the addendum to PCIV, but no measures are required to ensure acceptability of water. Only the customer satisfaction index could play a role due to the assumption that consultation with local water committees are undertaken to achieve the target.

In addition to those elements, the legislation should provide for separate toilets also in public places and schools, and ensure privacy and dignity. In judging acceptability of water for consumers but also of sanitary facilities, it is important that cultural needs or users preferences are taken into account. These may vary from one community to the other. To this effect, introducing mechanisms that would ensure effective participation of the public and access to information is key. Regulations may be more specific, depending on the population's needs and preferences.

²⁷⁵ Human Rights Council, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque, A/HRC/12/24, 1 July 2009, para 80.

²⁷⁶ Constitution, National Objectives and Directive Principles of State Policy, III(ii) :

²⁷⁷ Public Health Act, Section 85(b).

²⁷⁸ Uganda Drinking (potable) water – Specification (2nd edition), US 201 (2008).



CHAPTER THREE
HRWS ANALYSIS OF THE POLICIES, STRATEGIES AND GUIDELINES

3. HRWS Norms and Standards in Policies, Strategies and Guidelines: The Planning, Implementation and Monitoring Processes

This Chapter analyses the policies, strategies and guidelines that influence the delivery of safe water and sanitation in Uganda, as well as the, institutional arrangements, implementation and monitoring frameworks of the water and environment and related sectors. The aim is to identify the levels of articulation of HRWS norms and standards and their application at national and decentralized levels. The areas of possible alignment with current sector development and service delivery benchmarks and monitoring processes are identified.

To offer clarity on the different HRWS levels of analyses, the Human Rights Service Criteria that assesses sufficient, safe, acceptable, physically accessible and affordable levels; and the cross-cutting governance issues of non-discrimination, access to information, participation, accountability and sustainability are used as levels of analyses.

The discussion in this chapter departs from the details of the legal framework provided under Chapter 2 to demonstrate the extent to which the provisions elaborated have been integrated into the sector policies, planning, implementation and monitoring by the Ministry of Water and environment and other relevant government institutions. This Chapter further reinforces the understanding that water is required for a range of different purposes, besides personal and domestic uses, to realize many of the UN CESCR Covenant rights and thus makes reference to infrastructure for water supply and sanitation services, as well as sustainable water resources management, both treated as mutually reinforcing components of the sector for securing access to water for present and future generations.

For purposes of understanding how MWE articulates the HRWS norms and standards in policy and practice, this Chapter will first provide an understanding of how the water and environment sector has prioritized and ensured targeting in terms of policies, institutional arrangements, planning, implementation and monitoring, to show evidence of progressive realization of safe water and sanitation in Uganda. Subsequently the discussion will address the cross cutting norms and service criteria mentioned above.

3.1. Prioritization of water for domestic and personal use

In line with the HRWS norms and standards, priority in the allocation of water must be made available for personal and domestic uses and should also be given to the water resources required to prevent starvation and disease, as well as water required to meet the core obligations of each of the Covenant rights. This subsection 3.1. provides evidence of the Government of Uganda's effort to **prioritize water for domestic and personal** use followed by a description of the efforts on targeting in existing sector mechanisms, structures and processes. As necessary, gaps are identified to serve as a guide for recommendations on how the government can better respond to ensure enjoyment of the right to water and sanitation and to more effectively deliver on the obligations to respect, protect and fulfil the HRWS.

The National Constitution of the Republic of Uganda and the Water Statute 1995 confirm that the state is responsible for developing policies, strategies and principles for monitoring, assessment, allocation and protection of the resources and management framework for water resource management, development and use. In line with the constitutional provisions, the government has put in place an enabling policy framework for water supply and management in the form of the National Water Policy, 1999 (henceforth referred to as NWP, 1999).

For sanitation, a first draft National Sanitation Policy, 1997 confirms that the Government is committed to offering an enabling environment where all Ugandans should have access to satisfactory sanitation facilities. This is equally in line with provisions made in the Uganda Constitution, 1995 as well as the Ministry of Health Policy and aligns well with the Alma Ata Declaration of 1978 for Primary Health Care. This Policy further acknowledges sanitation as a basic right and responsibility for all in its policy principles (see point 10.1 of the policy).

As discussed under Chapter 2 of this report, there are quite a number of legal provisions that support the implementation of the HRWS in Uganda including some of the key objectives in the national Constitution.

Some of these will be referred to as this discussion progresses to show the progression from definition of these legal aspects to practice. The review of the National Water Policy 1999, (NWP, 1999), for instance, reflects the incorporation of the basic policy statements related to the water sector which are captured under Objectives XIV; XXI; XXVII of the National Constitution of Uganda namely:

- General social and economic objectives (Objective XIV): The State shall endeavour to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall, in particular, ensure that all Ugandans enjoy rights and opportunities and access to education, health services, clean and safe water, work, decent shelter, adequate clothing, food security, and pension and retirement benefits.
- Clean and safe water (Objective XXI): The State shall take all practical measures to promote a good water management system at all levels.
- The environment (Objective XXVII): The State shall promote sustainable development and public awareness of the need to manage land, air and water resources in a balanced and sustainable manner for the present and future generations.

The responsibility of the state to provide safe water for personal and domestic use is emphasized in the NWP, 1999 which considers water as a social and economic good, but which has a primary objective of the government - to provide water for human consumption. This priority status of the domestic water supply, is defined within the broader context of water resource, in which a set of specific policies and strategies have been elaborated including linkages to sanitation, sewerage, health and hygiene aspects.

Under the Planning and Prioritization section of the NWP 1999, it is confirmed that domestic demands to have first priority while allocation to other uses including water for production (agriculture, industry, hydropower) will be based on economic, social and environmental values of the water (most beneficial use),(see NWP, 1999:8). It is further highlighted that domestic water supply in the water development and use should be prioritized as defined in the water Statute 1995. Furthermore, the MWE Department of Water Development (DWD) identifies the provision of water for domestic use as a first priority:

*[...] First priority in water allocation is to meet the domestic water demand. Therefore, water allocation for the domestic needs of a community should be reserved within the total available from each water resource [...].*²⁷⁹

There is clear demonstration of the fact that water for domestic and personal use is prioritized in Uganda. While overall priority has been accorded to domestic water supply, the NWP 1999 also guides development efforts in urban and rural areas to ensure targeted water supply services. The differentiation between urban and rural is made according to administrative levels. All city councils and municipal councils are urban as well as the sub-counties named as Town Council. Rural Growth Centres are considered rural when they are located in a rural sub-county. In earlier years, some sub-counties were considered partly urban/partly rural when there was a town council located in the sub-county. The biggest challenge in the urban coverage calculation is the fact that National Water and Sewerage Corporation (NWSC) reports on the number of connections they have outside the urban administrative units, yet this is considered a rural area. All population figures are related to the urban administrative area while the connections are also in rural sub-counties.

The next sub-section therefore discusses targeting since this is crucial as part of the evidence for progressive realization of HRWS especially for the vulnerable and marginalized areas and groups.

3.2. Targeting

This sub-section identifies the different types and levels of targeting including policy targeting (strategies and action plans), budgeting, equity, geographical targeting, and targeting of vulnerable groups. As much

²⁷⁹ See NWP 1999, Chapter 8 on Water Allocation Principles Section 8.1, p. 27.

as possible attention is paid to access to water and sanitation, beyond current definition of coverage to cover the physical, economic and social aspects of access which are captured in the HRWS framework.

3.2.1. Targeted policies, mandates and responsibilities

Policies

Since policies guide planning and implementation processes, it is crucial to establish the extent to which policies are targeted to support the prioritization of water and sanitation for the unserved groups and areas. This study re-affirms that the MWE has developed quite comprehensive sub-sector strategies and guidelines that that could support better targeting during the implementation processes which can therefore not go unnoticed. For instance, the District Implementation Manual of 2007 provides detailed guidance for decentralized planning, implementation monitoring, evaluation, reporting, and includes cross-cutting issues and sustainability (O&M requirements). Others include the National Framework for Operation and Maintenance of Rural Water Supplies (2004), a National Water Quality Management Strategy (2006), and a Long Term Strategy for Investment, Planning and Operation & Maintenance of Water Supplies and Sanitation in Rural Growth Centres (2005).

However, a critical review of the NWP 1999, shows gaps to which a review and update of the overall policy framework may be necessary since a lot of critical aspects that are necessary to adequately support the implementation of decentralization, the increased role of the private sector, institutional re-arrangements, cross-references to recent development plans and policy objectives, the aspect of climate change and many other developments that occurred or gained importance since 1999 are all not reflected in the NWP, 1999.

Sanitation, on the other hand, has no finalized sanitation policy. The implementation and monitoring of sanitation is guided by a 10-Year improvement Sanitation and Hygiene (ISH) Strategy (Financing Strategy 2006-2016) formulated under the aegis of the NSWG, to provide a broad guideline through which sustainable sanitation can be achieved over the ten-year period 2006 – 2016, with a clear breakdown for the formal and small scale independent sectors including the role of the civil society. The ISH Strategy is based on a 10-point *demand, supply and enabling environment* elements as summarized below:

- | | |
|----------------------|--|
| Demand | 1) Implement ISH promotion and social marketing |
| | 2) Enforce ISH |
| Supply | 3) Release budgets through prioritized work-plans |
| | 4) Accelerate pro poor affordable technology development |
| | 5) Improve private sector supply chain |
| Enabling Environment | 6) Rationalize, simplify and disseminate policy and guidelines |
| | 7) Improve Multi-sectoral coordination of ISH |
| | 8) Create a rewarding and competitive environment for the private sector |
| | 9) Enhance government efforts to improve civil service performance |
| | 10) Launch the KDS and then monitor and rank performance |

Although a summary of estimated costs by implementing agency for the implementation of the ISH Strategy is defined, there is no clarity on how the standards for implementation have been set; how monitoring of the planning and establishing a budget process to track and ensure that all responsible institutions adequately budget for sanitation; how disbursements of sanitation funding and implementation of work plans is coordinated; or how the government ensures accountability.

It should be noted here that, as mentioned above, a first draft National Sanitation Policy document of 1997, which was prepared by the National Sanitation Task Force was reviewed during this study. There was no evidence found of this policy having been finalized and formalized and there was little knowledge of this document in the sector. This draft policy principle on equity (see point 10.2) specifically identifies the targeting of public institutions citing schools, health units, refugee camps, low income households and those living in locations where the costs of providing basic services are exceptionally high, for instance, areas with collapsing soils, hard rock areas and those with high water tables.

A broad definition of sanitation coverage (i.e. latrines, solid waste disposal, drainage and soak pits, hand-washing facilities and soap, positive attitude change/hygiene education) is provided in the Draft National Sanitation Policy 1997, which goes beyond an improved sanitation facility. This is elaborated both in the six policy objectives, as well as in the sanitation indicators which capture: promoting safe disposal of human excreta by any appropriate means; proper management of solid and liquid wastes; development and maintenance of safe water chain; IEC for behaviour change concerning sanitation; mobilization of resources for sanitation; and providing a framework for the development of appropriate laws and regulations including sanitation guidelines and an institutional framework for sanitation promotion. Additionally, the policy foresees establishment of a sanitation information management system being put in place, with appropriate research facilities.

Roles and Responsibilities

In terms of roles and responsibilities for delivering these principles, this research confirms that while there are provisions in the legal and strategic framework frameworks that could be sufficient to achieve desired improvements in sanitation services, the key problems are identified along the lack of a single mandated government entity accountable for sanitation, lack of sufficient guidelines and standards and a comprehensive regulatory framework particularly for law enforcement and for managing the whole sanitation chain with respect to the roles of the service providers.

Clearly, none of the policy and legal instruments introduce any specific institution in charge of sanitation; instead, functions are distributed across a range of ministries and government levels. This lack of clear responsibility allocation results in institutional weakness and lack of coordination among the institutions responsible for sanitation improvement (especially between the central government institutions and local governments) may explain the general absence of sanitation law enforcement and the difficulty in the improvement of access to safe sanitation services. The Ministry of Health (MoH), for instance, is responsible for providing guidelines and standards of service that will enable the local government to carry out appropriate services, but the policy fails to adequately define the allocation of targeted financial resources necessary for realizing the implementation of the policy.

The review of the National Environmental Health Policy 2005 shows a focus on the tasks of the Ministry of Health, but no specific roles for MWE. Yet, this policy defines the strategic priorities to promote domestic and school sanitation and basic hygiene, (an area that is not the focus of MWE tasks) although sanitation coverage is one of the WSS sector's Golden Indicators.²⁸⁰ The strategic framework for sanitation has, however, been developed considerably with the formulation of the Improved Sanitation and Hygiene (ISH) Financing Strategy (elaborated by the Ministry of Health with assistance from the Water and Sanitation Program of the World Bank, in 2006), which was complemented by the "Ten-Year Integrated Financing Strategy for Improved Sanitation and Hygiene (ISH) in Small Towns" (2010). With the sanitation coordination role now being undertaken by the Office of the Prime Minister (OPM), the ISH is being revised together with the MoU between the different ministries responsible sanitation. It is desirable that the roles and responsibilities get better articulated to ensure better targeting, prioritization and accountability for sanitation.

At the level of planning for water supply, the government makes clear distinctions in approach for urban and rural areas which is also evident in national standards for service delivery. One of the Government's objective in the Water and Sanitation sector is to increase rural and urban access to safe water supply to 65 percent and 100 percent, respectively in financial year 2019/20; as well as increase sewerage coverage to 30 percent in towns with population greater than 15,000 people.

The supply of water and sewerage services in the urban towns (large and small towns) is the direct responsibility of the National Water and Sewerage Corporation (NWSC), which operates under the NWSC Statutes 1995. NWSC's key objectives are broad-based and cover management of water resources and provision of water supply services for a range of uses including *domestic*, stock, horticultural, industrial, environmental and other beneficial uses. Additionally, NWSC is obligated to provide sewerage services, in

²⁸⁰ JWESSP, 2011, Inception Report - Joint Water and Environment Sector Support Programme (JWESSP) for 2013 – 2018.

any area in which it may be appointed to do so under this Statute or the Water Statute 1995 and to develop the water and sewerage systems in urban centres and big national institutions throughout the Country.

Planning and prioritization of water resource management and services at lower levels is undertaken at the basin level through the Water Management Zones, (WMZ). The WMZ focus on implementing the actual activities including rationing of water use through issuance of user permits and licensing, water quality testing and monitoring to ensure that water is safe for human consumption. To make these processes effective, at the WMZs level the water users and stakeholders are supported to prepare catchment management plans which guide the prioritization for projects which are used by local governments, water management zones etc. to solicit funds through the government system.

The natural resources such as forests and wetlands provide natural storage for water resources while also providing a natural purification of polluted water. Given that the degradation of these natural resources is detrimental to safe water provision for both human consumption and for production, it is at the WMZs level that the linkages between environment, water resources and climate change seems to be most relevant.

Targeted strategies – The Pro-Poor Strategy 2006

One of the key outputs of this research was to define concrete recommendations for enhancing the application of the recently reviewed Pro-Poor Strategy 2006. This has been analysed below to illustrate the extent to which targeted sector strategies are contributing to HRWS implementation and in promoting access to the unserved and underserved. The table provides a quick review of some of the key aspects of this targeted strategy using both desk and information collected from the district level consultations:

Table 6: Key aspects of the Pro-Poor Strategy 2007

#	Gap	Recommendations
1	Title of the Strategy –The strategy does not only target the poor but it also targets other vulnerable groups such as the elderly, PWDs and PLWAs.	There is need to agree on whether the strategy should strictly target the poor or be inclusive of other unserved or under-served groups. If it targets other groups, then the title of the strategy should reflect this. This would also imply adjustments in the roles and responsibilities for implementing the strategy.
2	Definitions - There are various terms that may be misconstrued by different categories of actors such as the “poor”, “pro-poor”, “vulnerable,” “marginalised, un-served, and under-served.”	The sector should develop a checklist and define the different terminologies to facilitate harmonized interpretation. This will also facilitate targeting and monitoring progress of WSS services delivery. As already highlighted in the WSP, World Bank 2015 Report on the Bottom 40%, using Poor as a definition would be quite misleading and a very difficult measure for defining the unserved since characterizing the poor is complex.
3	The strategy lacks targets, timeframes and an action plan for its implementation	The revised strategy should include an action plan with clear targets, timeframes and indicators to monitor progress of implementation of the different actions on the poor and other vulnerable persons.
4.	Limited awareness about the strategy especially at district DLG level.	This draws attention to access to information regarding all information that impact on the delivery and provision of services to the population. Once adjusted, the strategy should be disseminated and popularized among stakeholders at the different levels of service delivery. This will increase its awareness, ownership, demand and accountability amongst them. The Pro-poor strategy should be

		<p>incorporate community awareness and training aspects to enable people appreciate the linkage between proper water resources management, proper operation and maintenance and access to water and understand the minimum standards for services.</p> <p>The pro-poor strategy should also clearly spell out the roles, responsibilities and obligations of the citizens in the promotion and implementation of the right to water and sanitation.</p>
General Strategies		
1	<p>Target funding to the worst-served areas - The rural sub-sector continues to receive a significantly smaller share of sector funding compared to the Urban Water Supply and Sanitation sub-sector.</p>	<p>The WSS sub-sector should balance the funding between urban and rural giving consideration that majority of the poor people mainly reside in rural. Funding should be better targeted ensure that water and sanitation services are delivered to the 36% of the population who are currently un-served and also target under-served sub-counties.</p>
2	<p>Improve overall sector performance using the performance framework</p> <p>Although equity of access is being monitored between and within districts, there is need to monitor equity for vulnerable groups and have disaggregated information on levels of access by vulnerable and marginalized groups such as the elderly, the poor, PWDs and those affected by HIV/AIDS.</p>	<p>Specifically, the following indicators should be incorporated in the sector performance framework:</p> <ul style="list-style-type: none"> - There is need for more efforts towards improved sanitation which should be disaggregated by un-served, under-served RGCs and public places and by categories of vulnerability - Collection, transportation, treatment and disposal/reuse of sludge in urban areas and schools - School sanitation indicators - standards and targets on sludge management (collection, treatment and disposal/reuse of waste) MHM, inclusiveness of facilities for pupils with disabilities, separate stances for girls, boys and teachers should be included - Indicator on participation of communities including disaggregated by vulnerability categories in planning/budgeting processes, implementation, monitoring should be included - Indicator on access to WSS information disaggregated by vulnerability categories should be included - <i>The Golden indicator on functionality does not look at reliability and availability. Additionally, the indicator on water quality is inadequate since it does not consider other service quality aspects such as water consumption, reliability, accessibility and perceived water quality)</i>
3	<p>Lower costs of service delivery</p>	<p>Simplified NWSC connection Policy</p> <p>Anti-corruption measures - the HRWS did not consult on this. However some key informants mentioned that there are cases of misuse and diversion of funds from intended activities.</p>

		<p>Improving procurement & contract management – the HRWS study shows that procurement delays affected absorption of funds thereby affecting access to rural water supplies.</p> <p>There is need to address the funding gaps currently hampering the operations of the Umbrella Organisations to facilitate them support O&M of urban schemes.</p> <p>The capacity of the MWE Regulation-Unit in terms of staffing and skills should be strengthened to enable it undertake its regulation and monitoring of water and sanitation services in the urban sub-sector.</p> <p>Operation & maintenance – Introduction of the Umbrella Organisations to support O&M of Urban schemes. Funding gaps should be addressed</p> <p>Establishment of an independent Regulation-Unit.</p>
4	<p>Improve sanitation and hygiene practice – MWE funding of UGX. 21m to the non-Uganda Sanitation Fund districts only targets two sub-counties per year for HESAN promotion specifically using the CLTS and home improvement campaigns approaches This implies that it is difficult to sustain improvements since each year, funding is allocated to new sub-counties.</p>	<p>There is need for the MoH to contribute to the sanitation budget line such that additional funding is allocated and targeted to sub-counties with lower sanitation coverage and also in the already triggered villages to follow up and ensure sustained behaviour change in the communities</p> <p>Sanitation in public places such as RGCs and markets which is the mandate of the MWE should be included in the strategy</p>
5	<p>Monitoring the impact of W&S services on the poor – the sector performance measurement framework lacks indicators for monitoring the impact of the pro-poor strategy on the poor and other vulnerable groups</p>	<p>Mechanisms for monitoring the impact of WSS interventions on the poor, vulnerable and marginalised groups should be developed. In-depth studies should be conducted to assess the following aspects of accessibility, availability, acceptability and the HRWS principles of access to information, non-discrimination, and participation should be included in the sector performance report.</p>
6	<p>Gender, people with disabilities, elderly persons and HIV/AIDS mainstreaming – Targeting of PWDs, elderly persons and those effected by HIV/AIDs is not prioritized.</p> <p>Women on WSCs still lack confidence and this affects their participation in making decisions on WSS service delivery.</p>	<p>The sector should develop confidence building modules as part of strengthening the capacity of women on WSCs.</p> <p>The sector should incorporate in the existing guidelines aspects of targeting and prioritizing these groups in WSS service delivery and their participation in planning, implementation, management and monitoring of WSS services.</p>
7	<p>Implement Integrated Water Resource Management (IWRM) -</p>	
8	<p>Empower communities through participation to ensure cross-subsidy –</p> <p>The HRWS noted that the elderly and PWDs and orphans are allowed to collect water in</p>	<p>The software guidelines should incorporate aspects of the need to prioritize the poor and other vulnerable groups in WSS service delivery.</p>

	case they cannot afford to pay. On the other hand, the poor are not offered cross subsidy	
9	Target W&S services towards the poor and un-served – sector guidelines for allocating funds to sub-counties do not direct that the worst served sub-counties be served first. The fund allocation to sub-counties does not consider poverty as one of the criterion to be considered by district local governments. The HRWS study revealed political interference as one of the factors that affects equity in the allocation of new water sources at sub-county level	Guidelines for targeting the poor and un-served and marginalized areas should be developed as part of the sector schedules to ensure that W&S services are better targeted within districts.
10	Increase density of water points / networks and thus reduce distance to water source access now defined as % of people within 1km of a safe water source Districts with scattered populations, geological challenges and hilly areas	For rural areas, there is need for the sector to develop and implement technologies to address such challenges.
11	Encourage self-supply based on markets solutions	Guidelines and data on this will need to be established
12	Promoting Rain Water The implementation of RWH using the DWSCG was stopped in 2014 due to the fact that it benefited well-to-do households. The HRWS study revealed in some contexts it could be the only technology option for targeting vulnerable persons such as the elderly and persons with disability.	Subsidies targeting areas with poor surface and ground water potential where traditional water sources are not feasible and for vulnerable groups e.g. PWDs, elderly persons and chronically ill persons.
13	Water quality protection and monitoring Key issues affecting water quality include high iron content which corrodes pipes, poor sanitation around water sources, inadequate funding to facilitate regular water quality monitoring and lack of water testing kits.	The WSS sector should upscale the use of iron removal technology from the pilot. The sector should increase the allocation of funding to facilitate regular water quality monitoring especially in newly created districts which currently have no capacity. In addition, communities should be sensitized about the safe water chain.
14	Prioritize interventions in poorest geographical areas	An intra-district and intra-sub-county comprehensive overview of who and where the poorest, the unserved and underserved are should be established using both existing data (UBOS household survey and other already disaggregated data from JMP and MICs etc.). Without carefully defined baseline data, it would be difficult to properly target and prioritize.
15	Phase out use of grants for operation and maintenance of RWSS facilities Phasing out of the conditional grants will affect the poor who cannot manage fees for	Initiatives by MWE, IRC and SNV such as HPMAs, SWSSBs and M4W need to be scaled up and an in-depth study conducted to assess their impact. At the National level, there is need to introduce a rehabilitation fund to cater for major rehabilitation of

	O&M therefore the grant should not be phased out.	WSS facilities that are beyond the scope of the community.
16	Involve women in planning and management	The current sector Indicator needs to highlight more participation of women in key decision-making positions at the structural level - law and policy framing and national planning
17	Subsidize bulk rural supplies in highly disadvantaged areas	Lower tariff rates for PSP and shared yard connections have not benefited the disadvantaged areas.
18.	Enhance access by demystifying the network and expanding to un-served areas	The target is that all people in a small town area have access to a pipeline within a distance of 200 meters. The demand-responsive approach does not fully align with the obligation of government to provide water and sanitation to all – this does not mean free services but targeted in a progressive manner for all in both urban and rural.
19	Directly serve the poor by establishing Public water points	Public stand points and kiosks, yard taps have been installed in small towns. However, they do not benefit the poor due to the middle man challenge. Despite NWSC standard tariff of UGX. Per cubic metre of water, at the end of the day the final consumer pays 200-300/20 litre jerry can. This leads to poor people using unsafe water sources or reducing on the amount of water used for domestic purposes, thereby compromising on the health and standard of living. The pre-paid option has sustainability challenges due to the cost of installation and the requirement that if a poor person does not have money to put on the pre-payment, then the same scenario as for yard connections will arise. Other affordable options targeting the poor and vulnerable groups should be developed. The subsidized connection policy could be a better option for households that have access to land.
	Directly serve the poor by continuously updating a Pro-poor tariff Directly serve the poor by subsidizing yard connections serving as authorized public water points	There is a need to constantly survey how well the tariff is serving the needs of the poor and to update accordingly The tariff setting policy for both rural and urban services for water and sanitation including clear guidelines and standards for small scale providers (private vendors and operators) needs to be elaborated to ensure affordability.

Although in the introduction the Strategy pin-points that its objective is *to improve effectiveness* [hinting that the focus is primarily on expanded access] *of the water and sanitation sector in providing services to the poor*, there are a number of limitations which have been analysed and presented in a recent WSP World bank Report (2015). Part III of the WSP World Bank Report (2015)²⁸¹, presents an analysis of the Pro-poor Strategy that will be used to a large extent to inform the recommendations emerging from this research. According to the Uganda Bureau of Statistics (UBOS), in 2013, Uganda had about 6.7 million poor people,

²⁸¹ World Bank, 2015: Water and Sanitation for the Bottom 40: A Review of Strategy and Practice since 2006.

or 19.7% of a national population of 34.1 million. As noted in the WSP World Bank Report (2015) `agreeing on the definition and location of poverty is critical to a successful pro-poor strategy`

This report provides a differentiation between the poor and the Bottom 40% who are economically disadvantaged. A report entitled - *Chronic Poverty in Uganda: The Policy Challenges* - reveals that over 8 million of 30.7 million people is chronically poor, with women forming the bulk. To maintain its relevance, the Pro-Poor Strategy 2006 would need to be expanded to serve as a policy tool for targeting not just the poor but the currently unserved and underserved populations in urban and rural (including peri-urban and informal settlements). The Pro Poor Strategy needs to cover structures (law and policies) processes (institutional mandates, finances, staff, and capacity) and outcomes (national minimum standards) to be realistic and effective.

As noted, Uganda's Poverty eradication Action Plans (1997, 2000, 2004) identified services that should receive funding priority due to their impact on the poor. The 1997 PEAP singled out five priorities for service delivery, of which water and sanitation was one. It is noted that in revising this first PEAP, the government solicited the views of the poor themselves, though introducing the Uganda Participatory Poverty Assessment process. It turned out that improved water supplies were a far greater priority for the poor than had been previously recognized (Mugambe 2010). The second PEAP further prioritized rural water supply in light of the participatory evidence (MOFPED 2004, pg. 168)²⁸². The 2004 PEAP set the following priorities for the water and sanitation sector: (1) to reallocate funds within the sector to rural water supply, (2) to improve cost effectiveness, and (3) to review urban subsidy policies and tariffs, so that users and the private sector would fully fund and finance services in the long term.

The Pro-Poor Strategy, 2006 was explicitly focused solely on "areas of the water and sanitation sector within the mandate of the Directorate of Water Development and the National Water and Sewerage Corporation" and NOT the entire water and environment sub-sectors. This, therefore explains why the responsibility for implementing the strategy was definitive on the roles of DWD, NWSC, and the stakeholders which work with these two organizations; and why Sanitation and hygiene promotion received so little attention in the strategy since these activities fall under the direct mandate of the Ministry of Health (MOH) and Ministry of Education and Sports (MOES). Similarly, water resources management practices are not examined, as those are now handled by the Directorate of Water Resources Management, and not DWD.

Clearly, there is little background information in the strategy that offers a definition of who or where the poor are in Uganda. Without a baseline that offers basic information on accessibility, types and levels of access to water, sanitation and hygiene for the different settings of service delivery (large towns, small towns, rural areas and informal settlements, it would be difficult to monitor progress or indeed establish whether the government is ensuring progressive realization in the planning and implementation processes. It is unclear and impossible to determine the extent to which the current service delivery arrangements respond to the needs of the poor. By referring to it as a Pro-Poor Strategy, this document in itself excludes other vulnerable groups who may not necessarily be poor but who may directly or indirectly be excluded in service delivery.

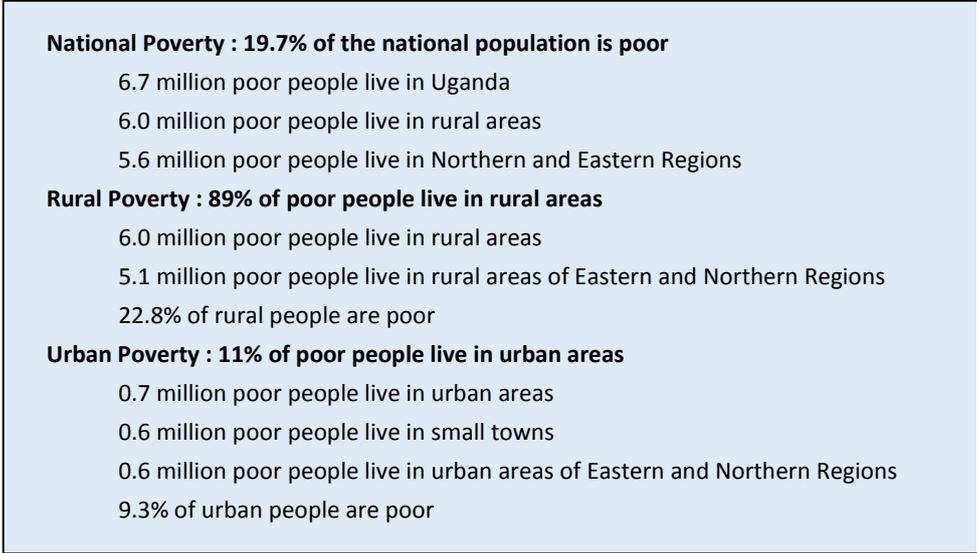
None of the intended 36 `actions` of the Pro-poor Strategy 2006 for instance are designed as action points hence the challenges which have culminated in the lack of implementation of this strategy. The World Bank report (2015) confirms that "although the actions in the strategy are specific, they are not stated in a way that is measurable" nor are there targets or milestones against which to evaluate progress. There is also no plan for monitoring and reporting on the strategy's implementation and achievements as evidenced in the sector monitoring and reviews done for the urban sub-sector which have since introduced no new indicators in the current sector performance framework to directly accommodate the actions presented in this strategy.

In terms of definition of poverty, the absolute poverty line for Uganda was established in 2001 based on the basket of food and non-food items necessary to meet basic needs (Appleton 2001). In fact, there are eight poverty lines established, separate ones for the rural and urban areas in each of the four regions (Kakande 2010, pg. 234-235). One of the challenges that impact on affordability of services is the fact that

²⁸² Ibid, at 16.

despite the diverse definitions of poverty, and the different levels of vulnerabilities, there is no specified guide on the different levels of expected community participation and contribution to accelerate access to the rural poor.

Figure 2. Uganda's Poor At a Glance



Source: World Bank 2015

In the post-2010 when the NDPs focused on wealth creation, there was less mention of the pro-poor strategy except for NWSC who had enacted pro-poor policies prior to the 2006 strategy, and established a unit to implement and monitor them. It should be noted that the reporting done by NWSC is in fact independent pro-poor approaches to service delivery among the urban poor which was not motivated by the existence of this strategy. While NWSC provides different tariff plans for the urban poor, there are no guidelines or specified business plan for progressively providing the urban poor, vulnerable groups and marginalized areas with safe water and sanitation services that has targeted financing arrangements as part of the targeting and prioritization of these groups.

The SPR 2015 reports that sector policies place an obligation on the community to make monetary contribution to the cost of construction as well as be responsible for O&M. However, the current household poverty levels curtail meaningful contribution and investment in WASH services by households. In addition, many households ordinarily prioritize other social economic needs such as health, education and food, with less emphasis on investments on water and sanitation. With respect to the enjoyment of the right to safe water and sanitation by the users, there are notable limitations with respect to local legislation which is deemed very weak on the financial obligations of water users and the level of service they are expected to get. All these compromise O&M of the WASH facilities, hence has impact on sustainability of existing services.

Accessibility in rural areas seem to be governed largely through the demand based approach which is based on the assumption that the communities are best positioned to define who is poor and therefore assist the authorities to target the un-served population for water and sanitation projects; an assumption that is explicitly stated in the Pro-Poor Strategy regarding the objective to empower communities through participation to ensure cross-subsidy.²⁸³ There is still an apparent gap in meeting the WASH needs of vulnerable and marginalized groups (including people with disability, schools, clinics and people in marginalized districts).

Due to the rapid expansion of districts, NWSC's operations have increased from 23 to 107 towns including towns in North-East. This calls for more effective solutions for investments to be steered to the under-

²⁸³ Pro-poor Strategy 2006, MWE/DWD, Action Point n°8.

served groups; and for the national water supply data base needs to effectively serve as a means to identify where the un-served areas and groups really are.

Since poverty is, to a great extent, the result of social discrimination²⁸⁴, these lines of social discrimination are pervasive within communities and local government authorities and are a cause of the lack of targeted interventions for providing access to water and sanitation services for the most marginalised and poorest groups. The DRA bears the risk of inequitably favouring communities benefiting from the political ties and the financial capital to pay the requested contribution at the expense of other parts of the population.²⁸⁵ Therefore, depending on the power relationship within a community and the representativeness of minority groups inside the political structure of LLGs and DLGs, a DRA solely relying on community self-need assessment might not be consistent with the state obligation of non-discrimination without any strong safeguards to target the most marginalised and poorest groups.

Furthermore, with respect to the planning process in small towns and RGCs, the Operations Manual for the Water and Sanitation Development Facility provides 21 criteria scoring process mentioned above to attribute more points when the beneficiaries are able and willing to pay more²⁸⁶. This raises the question of compatibility with the standard on affordability and its related question of distinction between ability and willingness to pay,²⁸⁷ since it sets an incentive for the development of infrastructures to the wealthier category of the population. While targeting wealthier categories of the population is certainly required to establish a good balance of revenue for water providers and be able to cross-subsidize, the incentive of targeting in priority the construction of infrastructure for these communities to the detriment of the most vulnerable and marginalised groups is contrary to the human rights based approach.

In order to address the issue of social discrimination at each step of the decision-making process, the District Planning Cycle should consider the following:

- i) The situation analysis phase should integrate a step of mapping of the most marginalised and poorest groups and their related water and sanitation needs prior to the step of community participatory planning. The mapping should make use of data from UBOS to complement the insights of DLGs on the situation analysis.
- ii) The mapping of most marginalised and poorest groups should encompass all category of the population suffering from one of the prohibited ground of discrimination. That are disparities in the services provided based on geographical locations, gender, people with disabilities, but also with respect to indigenous communities and other marginalised minority groups.²⁸⁸
- iii) The step of community participatory planning should foresee a provision to pro-actively engage with most marginalised and poorest groups to ensure that their needs be met in projects lists produced by PDCs.
- iv) The instructions given to LLGs and DLGS for decision making purposes should be based on objective and actionable criteria with respect to non-discrimination in order to avoid that projects benefiting the most marginalised and poorest groups be overlooked in the short listing processes. The mere mention of considering marginalised and poorest groups in the decisions is not sufficient and needs further explanation on how to implement these decisions so duty-bearers might be able to do the right choices and civil society might be able to influence and monitor these choices. The decisions taken with respect to most

²⁸⁴ Inga T. Winkler, Margaret L. Satterthwaite and Catarina de Albuquerque (September 2014): *Measuring What We Treasure and Treasuring What We Measure: Post-2015 Monitoring for the Promotion of Equality in the Water, Sanitation, and Hygiene Sector*. In Public Law & Legal Theory Research Paper Series Working Paper N°14-48, New York University School of Law.

²⁸⁵ It is worth noting that the state of Benin has dropped the DRA on the basis of that finding and subsequently set in place an approach of communal planning based on a comprehensive analysis of the needs of communities by local government staff. Cf. WaterLex & others, *Vers un cadre pour la coopération décentralisée pour l'eau et l'assainissement au Bénin: une étude sur le rôle de la coopération décentralisée dans la mise en œuvre du droit humain à l'eau et à l'assainissement au Bénin*, 2014.

²⁸⁶ MWE (2014), *Operations Manual for the Water and Sanitation Development Facility: Annex B.1.3*. The following scoring is displayed for criteria 2.a Ability/Willingness to pay for water- Water vending (Average cost of 20 l jerry can of water): up to UGX 50 equals 1 point, UGX 50 – 200 equals 2 points, Over UGX 200 equal 3 points.

²⁸⁷ See section on sections on Affordability.

²⁸⁸ See CHAPTER OUTCOME-NON-DISCRIMINATION for a discussion on this indicator.

marginalised and poorest groups should be reported with the rationale on how the criteria were followed at LLGs and DLGS level.

v) The planning cycle should establish non-discrimination criteria respectively for rural, urban and peri-urban areas. Beside, evidences based on the experience of the Uganda Participatory Poverty Assessment Process (UPPAP) suggest that it is difficult to obtain information on communities in urban areas that are representative in a participatory manner because of population density.²⁸⁹

vi) With respect to the specific guidelines for small towns and RGCs, Operations Manual for the Water and Sanitation Development Facility should reviewed criteria on Ability and willingness to pay and on equity as mentioned above²⁹⁰.

vii) Steps for software activities in the sector should integrate non-discrimination criteria for community mobilisation to ensure that most marginalised and poorest groups are not overlooked in the process.

As regards large towns and cities managed under NWSC contracts, no official guidelines have been found on the prioritisation process for the development of new schemes.

3.2.2. National Budgeting

Policies without an implementation plan and resources can easily become irrelevant: In Uganda, the prominence of water and sanitation was raised with the establishment of the Poverty Eradication Action Plan (PEAP) in 1997, coupled with debt relief and a Poverty Action Fund (PAF). Reform studies subsequently led to the development of Strategic Investment Plans (SIPs) with appropriate policies, strategies, action areas, and associated costs.²⁹¹ The National Development Plan (NDP – 1 and 2) guides overall resource allocation through an annual national planning process which is consultative and involves all levels of government. It leads to the finalization of the Medium-Term Expenditure Framework (MTEF). Although the MTEF includes projections for the next three years, past experience shows that actual allocation tends to be lower than the projections.

There is evidence of government commitment to continue to provide safe water and hygienic sanitation countrywide as evidenced in the specific actions planned within the recent financial year 2015/2016. Water and Environment is one of the 16 sectors that the Government of Uganda prepares Sector plans and expenditures as presented in the current NBFP FY 2015/16. The NBFP FY 2015/16 confirms:

In the Water and Sanitation sector, Government interventions have sought to increase access to safe and adequate water for human consumption and water for production; as well as the construction of sanitation facilities in urban and rural growth centres. This has been done through rehabilitation, expansion and construction of piped water schemes, borehole drilling, gravity flow schemes and sewerage facilities in urban centres, among others. (pg. 27)

The National Budget allocation, which was approved during the FY 2015/16 National Budget Speech for water and sanitation is UGX 547.3 billion (4.3%), with key interventions focused on increasing access to safe water in rural and urban areas; increasing sanitation and hygiene in rural and urban areas; and increasing functionality of water supply systems.²⁹² Additionally, in an effort to provide improved urban hygiene, sanitation and protection of Kampala's natural environment plans are cited of expanding sewer network

²⁸⁹ "During the pilot testing, the research teams found that because of the nature of urban areas, with many households living in close proximity but not knowing much about each other, it was not possible to convene focus groups whose participants could provide reliable information about their fellow residents. For the main phase of the study, it was decided to carry out the activities in relation to the households that were participating in the discussions. However, this proved to be a serious limitation because the results only 'represent' those who took part. Without a full census of each site (or a probability-based sample, which is incompatible with the principles of participation) we cannot produce national results which are representative of urban areas." Johnson Kagugube & other, *Integrating Qualitative Dimensions of Poverty into the third Uganda National Household Survey*, in *The African Statistical Journal*, Volume 8, May 2009, p. 42.

²⁹⁰ MWE (2014), Operations Manual for the Water and Sanitation Development Facility: Annex B.1.3.

²⁹¹ AMCOW CSO Report 2009/10.

²⁹² Budget Speech: Financial YR 2015/16 Delivered by Minister of Finance, Planning and Economic Development. Available at <http://parliamentwatch.ug/wp-content/uploads/2015/04/Budget-2015-16.pdf> on 15.06.2015.

coverage (i.e. within the metropolitan Kampala as well as the construction of Kinawataka sanitation infrastructure will also be commenced).

From the HRWS analysis, a historical perspective of the government allocation and spending on accelerating access to safe water and sanitation shows that there has been retrogression in national finance targeting in that the financing for the Water and Sanitation sub-sector has been declining for the past five years:

According to the Local Government Finance Commission (LGFC)²⁹³, [...] *funding for the WASH sector has declined with the operationalization of the National Development Plan 1 & 2. Focus is on transformation of society – investments of public nature where individuals cannot make a choice. Investments are more geared towards power generation, energy transmission, roads ... Elements of individual choice such as schools, water, health ... have not been given due attention. CGs for WASH is not increasing in the medium term neither long term. It is likely to remain the same. Increase in budget has been earmarked for other sectors. Development partner’s contribution has been incremental, but government has limited contribution for the WASH sector [...].*

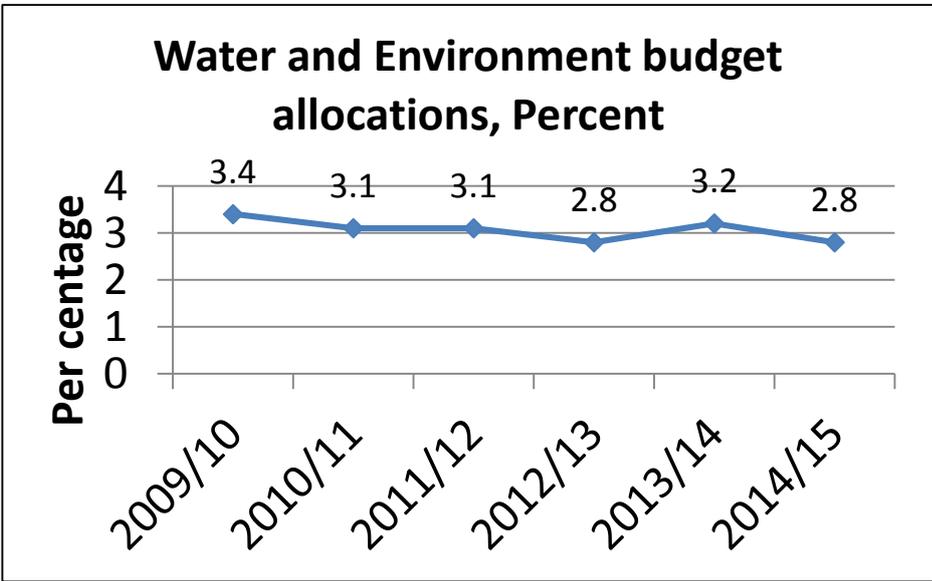
The table below reflects a stagnation of the sector budget allocations for the past four financial years.

Table 7: Budget Trends for 2010-2014

Financial year	Total Budget (billion UGX)	On Budget (billion UGX)	Portion of National Budget	Off Budget (billion UGX)
2010/11	352.2	256.40 (73%)	3.1%	95.8 (27%)
2011/12	489.3	281.57 (57.5%)	3.1%	207.77 (42.5%)
2012/13	382.0	308.27 (80.7%)	2.8%	73.7 (19.3%)
2013/14	542.7	439.1(80.9%)	3.2 %	103.7 (19.1%)

Source: Sector Performance Reports (SPRs): 2011, 2012, 2013, and 2014

Figure 3: Water and Environment budget allocations - Percent



Source: Joyce Magala, Sylvia Bohibwe, 2015

The National Development Plan (NDP 1) 2010 indicates that the main focus during the period would be to increase access to safe water and sanitation levels as well as improve functionality of water supply systems so as to reduce investment cost per capita.²⁹⁴ Additionally, it is noted that the total sector financing needs

²⁹³ Local Government Finance Commission, Local Revenue Status: <http://www.lgfc.go.ug/?q=content/local-revenue-status>.

²⁹⁴ NDP (2010), p. 270.

as estimated by the SIP was 676.9bn and 772.3bn for FY 2011/13 and 2013/14 respectively.²⁹⁵ Clearly, the budget allocations in table 1 above demonstrate significant gaps in funding as compared to the priorities and targets set by the sector. For instance, it is evident that for both 2014/15 and 2015/16, the Government national allocation to water and environment sectors has been 3% amounting to UGX billion 420.5 and 424.4 respectively.

With respect to sanitation, despite the fact that the Government of Uganda is one of the 32 countries whose Ministers and Heads of Delegation responsible for sanitation and hygiene made commitments to tackling the sanitation crisis through the EThekwini Declaration, it is not clear if 0.5% of GDP is actually being allocated to sanitation. On the contrary, a report by the World Bank (2012), which assessed the economic impacts of poor sanitation in Africa, confirms that Uganda loses UGX 389 billion annually due to poor sanitation which is equivalent to USD 5.5 per person per year or 1.1% of the national GDP per year.²⁹⁶ The extra cost of water treatment due to unsafe disposal of human excreta is not included in this cost but where there is pollution, poor sanitation will affect water quality, let alone other health related costs that arise out of lack of safe sanitation.

It should be noted that within the Ministry of Water and Environment, DWD has no specific division (or even section) for sanitation (except rural sanitation, which is covered by the Department of Rural Water and Sanitation). Hence, the ministry allocates no specific resources for sanitation.

3.2.3. Equity

The overall guiding principle of the 1999 policy was “some for all rather than more for some.” In other words, equity and serving first those in most need was to be the primary consideration. The policy called for *developing needs-based criteria* to determine the selection of locations for service expansion, and appropriately balancing investments between rural and urban areas. In addition, specific strategies in the 1999 policy seemed to enable Uganda to reach the rural poor and economically disadvantaged, particularly the use of low-cost and appropriate technology, and community participation in all phases of the project cycle. The policy also introduced cost recovery measures for both rural and urban areas. More was expected in large towns, where in principal users should pay the full costs of investment, operations, and maintenance of piped schemes through tariffs. In rural areas, cost recovery goals were significant but more limited. They took the form of upfront contributions to construction costs, and community responsibility for operation and maintenance through the Community Based Maintenance System (CBMS).

Aspects of equity in sanitation, are captured in the National Sanitation Policy 1997, under Section 10.2 which indicates that the use of public funds will aim at the attainment of basic levels of sanitation with special support being given to public institutions like schools, health units, refugee camps, low income households, and those living in locations where the costs of providing basic services are exceptionally high, including such areas as those with collapsing soils, hard rock areas, areas with high water tables.

Districts closer to larger towns, with more resources and better organization,

*often attract and benefit from assistance than those with less resources and not well organized, which is unfair in terms of inequity reduction. The current preferred mode of funding (budget support) treats all districts the same and yet some boarder districts with difficult terrain and poor infrastructure would be better served by project Aid, but this is currently discouraged.*²⁹⁷

3.2.4. Geographical Targeting

Geographical targeting efforts are based on MWE’s policy of 2004 (updated in 2006) in which focus was placed on expanding water supply services to the poor in urban as well as rural areas. The policy set the target of 100 percent coverage for water supply and sanitation (WSS) services in urban areas by 2015. In response to the policy, in 2004 the National Water and Sewerage Corporation which is responsible for

²⁹⁵ Uganda Water Sector SIP (2009), p. xii.

²⁹⁶ WSP, Economic Impacts of Poor Sanitation in Africa, 2012, available at: <https://www.wsp.org/sites/wsp.org/files/publications/WSP-ESI-Uganda.pdf>.

²⁹⁷ G. Kimanzi, Challenges of Financing Rural Water Supply Services in the Context of Decentralisation in Uganda, 30th WEDC International Conference, LAO PDF, 2004, available at: <http://wedc.lboro.ac.uk/resources/conference/30/Kimanzi.pdf>.

service delivery in Kampala, undertook a series of measures to implement the pro-poor policy in urban areas. These are highlighted below together with the challenges that emerged from the application of these policies.

The National Water and Sewerage Corporation of Uganda characterizes the urban poor as households with incomes of less than USD 40 per month, clustered settlements with water consumption of less than 20 litres per person per day, and residents who are not connected to the city's water supply network (Environment and Social Management Framework 2007). Although NWSC has the responsibility to provide water and sewerage services to the large towns like Kampala, the corporation faces difficulties in service delivery as 20 per cent of its customers has unreliable incomes and is not well informed. Lack of clear land tenure arrangements, water logging in most of the slum areas, and political interference hamper water and sanitation service delivery. The delivery of improved drinking water and sanitation services to the poor in Kampala is also linked to the city's physical planning²⁹⁸, drainage system, ecosystem health and pollution.

Poor sewerage infrastructure, including leaking old sewer pipes, and poorly constructed and managed septic tanks and sewage treatment works contaminating ground and surface water; and Wide use of pit latrines, especially in the slums, contributing to pollution of surface and groundwater in the high water table areas of Kampala. As part of the government's mitigation measures and in view of the importance of groundwater, especially as the only source of water by the poor, the Wetlands Monitoring Unit is gazetting important wetlands as protected areas. It is expected that the gazetted wetlands would be revitalized so as to play the role of water purification, among other ecological functions.

Large towns are classified as those gazetted for operation by National Water and Sewerage Corporation, which provides water and sewerage services. NWSC currently operates in 110 "Areas". In terms of targeting water supply for the urban poor, NWSC made efforts to extend safe water supply services:

- *Definition of an Affordable Connections Policy*, aimed at increasing coverage in all NWSC areas (in particular, the poor settlements) by lowering the cost of the connection fee for any customer (domestic and nondomestic) living within 50 meters of the water mains. This policy was to be funded through an 11 percent surcharge in the average water supply tariff, to be collected and ring-fenced into a New Connections Fund.
- As part of targeted low-cost water supply programmes, a *Pro-Poor Tariff Policy*, which shifted the uniform tariff structure for all consumers to a differentiated structure for (i) domestic (ii) non domestic customers, and (iii) public water points (PWP). This means that there is a specific tariff for each of the NWSC's customer categories across all water supply areas: industrial and commercial, government and institutional, and domestic. An additional tariff was developed specifically for PWP. The MWE considers that the differentiated tariff structure per customer category ensures equity in the supply and pricing.²⁹⁹
- In the late 1990s, NWSC began developing an *investment project* specifically focused on the urban poor in Kampala. WSP provided technical assistance to this effort in order to survey the situation in informal settlements and identify management options (AguaConsult, undated).
- The *Kampala Urban Pro-Poor Project* implemented 2002-2007 with financing from German development cooperation (KfW), at a cost of USD 3.3 million. Three additional pro-poor projects in Kampala were implemented from 2008, with estimated funding of USD 7.9 million, included USD 2.5 million for a GPOBA output-based aid project which aimed to subsidize water supply connections (including shared yard taps and prepaid PWP/kiosks) in specific poor settlements of Kampala. The community participation and demand creation for shared yard taps and prepaid

²⁹⁸ The Local Governments Act (2007) empowers local governments in Uganda to plan and manage the physical planning of towns in consultation with the Town and Country Planning Board. As this legislation is largely ignored, many of the city's housing projects do not adhere to the guidelines for the building of new residential and commercial buildings. As a result of inadequate city planning, the poor construct their homes in underserved areas with no road network, water extension and sewage reticulation services. The inadequate planning is worsened by lack of coordination between Kampala City Council and infrastructure service providers such as NWSC and Uganda Electricity Distribution Company on matters of planning, (see <http://www.grida.no/publications/rr/blue-cities/page.aspx?id=4655>).

²⁹⁹ MoWE. 2011. Uganda Water and Environment Sector Performance Report 2011.

PWPs/kiosk pilot-tested in the GPOBA project have now become the NWSC's approach to expanding services in all unserved areas.

- Numerous other Kampala water projects over the same period have included components for extending pipelines and increasing public water points and kiosks in informal settlements (WSP 2013, pg. 41).

As part of the delivery mechanisms for these targeted activities, NWSC established the Urban Pro-Poor Branch in 2006 to promote, plan, coordinate, and manage activities to provide services to the unserved and poorer settlements in Kampala.

Despite the fact that the pro-poor policy and program have led to a rapid expansion of services to poor households, a number of difficulties and challenges, nevertheless, emerged during implementation which have a direct impact on efficiency of investments for infrastructure and affordability,³⁰⁰ i.e. :

- The discounted cost of household connections (at UGX59,000 or \$35 in 2004) was found to be a significant barrier to access for poor households, as it represented 74% of the average monthly income of poor households which is grossly unaffordable;
- The water tariff defined by NWSC seemed affordable for poor households, but the level of subsidy reaching the poorest seemed very low: It is estimated at UGX2, 600 (\$1.3) per capita per annum for users of PWPs, compared to UGX10, 300 (\$5.1) per capita for house connections. This is mainly due to the fact that poor households share connections and use relatively low volumes of water (average consumption is 20 litres per capita per day).

Clearly, the elements of water availability and continuity have not been adequately addressed by the NWSC pro-poor measures. Whereas physical accessibility was promoted through steps highlighted earlier in this discussion, it is also confirmed that non-payment of water bills by households and PWP/kiosk operators seem to be causing a significant number of disconnections. This is partly as a result of the fact that the NWSC did not set up a dedicated and adequately ring-fenced New Connection Fund in spite of the fact that this was a key element of its Affordable Connections Policy. As a result, the funds collected for the Affordable Connection Policy through an 11% tariff surcharge were diverted to the funding of regular operational activities. Although this is addressed by the NWSC's Urban Pro-Poor Branch, it can be argued that high levels of disconnections (up to 50% of PWP) significantly undermine the efforts by the NWSC and its partners to expand services into poor settlements at scale using yard taps and PWPs.

In terms of physical infrastructure, the water mains extensions in poor settlements were, and are still, carried out on a piecemeal, project by project basis because Kampala Water has no clearly defined strategic business plan that identifies total investment needs and revenue/funding requirements over the long term. There is no clarity on whether NWSC current financial stability will translate to more targeted programs to reach the poor to significantly improve access to safe water supply services to the unserved in both urban and rural areas. It seems that NWSC broadened coverage of the Affordable Connections Policy to non-poor domestic, government and industrial customers as well resulting in rapid increases in connections, while the urban poor predominantly remain unserved. This does not in any way mean that coverage to the poor has not increased; on the contrary, the National Service Delivery Survey (NSDS, 2008) showed that 26 percent of the population was served by a public tap (PWP/kiosk, Presidential taps) in 2008 registering a three-fold increase in the number of public taps, as well as expansion of shared connections (predominantly yard taps) in poor areas.

In comparison to sanitation, the NWSC pro-poor targeted measures mentioned above all focused on extending water supply and apart from the interventions under the WSDFs, there is no targeted effort to promote urban sanitation as most of the urban councils spend their funds on solid waste management. To a smaller degree Kampala Capital City Authority (KCCA) has continued to support the improvement of sanitation in Kampala with the construction of 10 community toilets in the informal settlements of Kampala

³⁰⁰ World Bank 2014: *Do Pro-poor policies increase water coverage? An analysis of service delivery in Kampala's informal settlements.*

and providing free services at 18 toilet blocks. These public toilets are located in markets, taxi Parks and along busy roads, and each is estimated to receive an average of 300 users per day, (SPR, 2015).

Urban centres as defined by UBOS that are not served by National Water and Sewerage Corporation, also includes Town Boards and Rural Growth Centres (RGCs) with populations of more than 500 people. Currently, there are 198 Urban Councils and 1,772 RGCs. The situation in the small towns is such that the WSDFs have no directives concerning pro-poor practices. The selection and monitoring procedures in the WSDF operations manual do not in fact include poverty considerations.

The DWD design manual for piped schemes, used by WSDFs, states that affordability must guide technical design. However, affordable designs are not necessarily pro-poor. For example, a scheme supply area may be limited to the densely populated town centre in order to limit costs, and in the process fail to serve poor people living in peri-urban areas. Similarly, the design may increase the number of public water points at the expense of yard connections and house connections in order to meet demand with a smaller and less expensive scheme. In this sense, and ironically, public taps are a means to limit consumer water consumption, not target service delivery to the poor (Hydrophil 2013, pg. 104-106).³⁰¹

There is further evidence of the government's efforts to promote targeting for the poor: the Pro-poor Strategy, 2006, Action #9 calls for increased levels of District Water and Sanitation Conditional Grants (DWSCGs). Although there has been some increase in nominal terms, in real terms the grants are below 2002/03 levels. DWSCGs represent a small and declining share of the overall water and sanitation budget. Released DWSCGs averaged 27% of the water and sanitation released funds, 2004/04 – 2013/14. The decline in DWSCGs has been accompanied by the need to use more of these funds to establish District Water Offices (DWOs) in the newly created districts.

3.2.5. Targeting Vulnerable groups

The NWP 1999 promotes a new integrated approach to sustainably manage water resources in ways that are most beneficial to the people of Uganda. The majority of the Ugandan population reside in rural areas and therefore are one of the primary targets of the policy. The SPR, 2015 provides under section 14.13.2 a description of both state and non-state interventions that promoted access to water and sanitation for the vulnerable during this reporting period to promote equity.

Children

The African Charter on the Rights and Welfare of the Child (1999), Uganda's Children's Act (1997) and other related instruments acknowledge children's vulnerability and assert equal rights for all children irrespective of age, physical ability, race, gender or economic status. One of the groups targeted in the NWP and explicitly mentioned in the policy document is children. Following the World Summit for Children, New York September 1990, Uganda developed a policy document **Uganda National Plan of Action for Children (UNPAC), 1992** prepared and published by the Ministry of Finance and Economic Planning which addresses issues child survival, development and protection. The main goal of UNPAC was to *"to establish survival, protection and development goals related to children and women for the 1990s that build on existing Government policies and sectoral plans."*

With respect to targeting school children for access to water and sanitation, MWE works in collaboration with other Ministries - Ministry of Education (MoES) and Ministry of Health (MoH). MWE's mandate regarding sanitation and hygiene is set out in a tripartite Memorandum of Understanding (MoU) with the Ministry of Health (MoH) and MoES, which defines its role as 'the development of public sanitary facilities and promotion of hygiene and sanitation in small towns and rural growth centres'.

MoH is expected to lead on other aspects of sanitation and hygiene, and MoES on school WASH. MWE focus is on household /community water supply; MoH is mandated and has funds for community sanitation improvement and hygiene behaviour change communication in communities; MoES allocates funding for WASH in schools under the "unfunded/low priority group in their budget and there is no specific budget for construction of WASH facilities in schools; and MLG has no budget for WASH facilities in schools. The reporting done in the current SPR (2015) on progress made with respect to children is therefore just on the

³⁰¹ Hydrophil (2014). *Study on Real Cost of Water Supply ST & RGC with Focus on Actual Cost of Capital Maintenance* (Draft).

relevant WASH indicators (with reference to sanitation facilities) in schools set out under the Golden Indicators (see page 191).

While it is acknowledged that improved sanitation contributes to high attendance rates in schools and more especially for the girl-child, in the 2014/2015 sector performance reporting period, MWE constructed only 24 sanitation facilities in 14 towns. Stances were separated for boys and girls, and for the case of 9 towns in WSDF Central, more stances were constructed for girls. For the 10 facilities constructed in WSDF- North, access ramps for the disabled were included, (SPR 2015: 191).

The Ministry of Education and Sports (MoES) provides basic requirements and minimum standards for education which specify that all schools must have access to a water source (rainwater tank is minimum); and separate latrine for boys and girls. However, available data confirms that there is a serious lack of access to WASH facilities in primary and secondary schools across the country which could be attributable to the low prioritization for sanitation and hygiene education which manifests in poor funding especially for primary schools (NBFP YR 2015/16). To fill these WASH facility gaps alone in all education institutions, it is estimated that around USD 200 million is needed for water supply facilities and approximately USD 70 million is needed for latrines (MWE, 2013). A bottleneck Analysis undertaken by MoEs, WaterAid and UNICEF confirm that out of a total of 29, 681 schools (primary and secondary) only 9600 have access to adequate water supply.

In terms of monitoring progress, MWE has **Indicator no.4 pupil stance ratio 40:1 and hand washing at key junctures (Golden Indicator no. 8)** coverage in schools as outcome indicators reporting by June 2014, indicated the percentage coverage of hand-washing facilities in schools was only 38% against a target of 45%, and a pupil to latrine stance ratio of 70:1, against a target of 40:1. Under the **Indicator 9** schools are required to provide washrooms and associated facilities for girls and separate bathing and toilet/latrine facilities for male or female learners or teachers.

A recent National Consultative Workshop on WASH in Schools held in April 2015 identified the current diverse roles played by different state and non-states as well as the challenges facing the support to WASH in schools highlighting: MOES - competing priorities in the sector; MWE - mandate lies with MOES, limited resources, poor maintenance of the existing facilities; Parliamentary Group - Limited resources, failure of partners to honour commitment, time constraints, cross cutting nature of WASH in Schools activities, inadequate information and checklist on WASH in Schools, etc. Overall, it was confirmed that Ministries (MOES, MOH, MWE and MLG) are given responsibilities and mandates without adequate financial and human resources to fulfil them. This consultation further identified and proposed possible minimum requirements for WASH in Schools, (see MoES, National Consultation Workshop on WASH in Schools, April 2015).

The government has shown further commitment (yet to translate into action) in addressing the current challenge facing access to WASH in schools: In February 2015, MPs asked government to come up with a policy of drilling boreholes for each primary school to prevent pupils walking long distances to access water from the community boreholes

"We are going to put pressure on government to come up with a policy to ensure that each primary school has a borehole" Ngora woman MP, and Chair of parliamentary forum on water, sanitation and hygiene

"Water source point is critical for any school community" Pallisa MP³⁰²

Institutions

The National Sanitation Policy 1999 Policy principle (see 10.2) specifically identifies public institutions - such as schools, health units, refugee camps, and low-income households including those groups living in areas with high-cost of living - to be targeted for low-cost sanitation programmes.

³⁰² See <http://www.washuganda.net/>.

Emerging recommendations on Targeting and prioritization

A number of recommendations have been identified for improving and establishing more targeted progression in enabling safe water and sanitation access for urban and for rural poor, vulnerable or marginalized groups and areas. These include:

For urban large towns and small towns, NWSC needs to develop a long-term business plan which coherently identifies needs, specifies affordable schemes, and defines funding sources for expansion and sustaining of services to that large towns small towns and which has a special focus on the poor and underserved settlements. This plan would provide a guide for engagement in these areas by external partners (development partners and CSOs) to ensure a tracked progression of service delivery. This would equally serve as a valid planning tool that would influence investment planning.

Closely tied to point made above, would be the clear definition of Pro-poor targets should be set at NWSC and Board levels and which should be clearly articulated in the performance and management contracts. At the moment, although NWSC's objective is to expand services to the unserved areas, no clear targets are defined and no targets are mentioned in the Internally Delegated Area Management Contracts (which the head office has set up with each of the towns under the NWSC's jurisdiction) and staff contracts. There are also no such targets in the Golden Indicators of DWD that can track the coverage to these specific groups or areas.

Development of a clear reinvestment plan for revenues raised through the 11 percent surcharge in the water tariff (mentioned in the World Bank report mentioned above) so that the funds can be ring-fenced and targeted for extending access to safe water by the poor. It is not evident which accountability mechanisms are in place to govern the effective and efficient utilization of these revenues collected by NWSC. This re-investment plan should have strict criteria which should be approved and monitored by government and the sector development partners. Consideration should be given to changes in population and the changes of administrative units which seem to constantly be changing from "rural" areas to "urban" areas (some sub-counties that used to be rural are now "urban" Town Councils).

Given that sector indicators are differentiated along rural and urban criteria clear parameters for defining the poor, the vulnerable and marginalized that benefit from this revenue should be agreed and established. The reinvestment plan should thus have proper procedures and guidelines, as well as a strategy for monitoring - data collection, processing, analysis and dissemination. The achievements in terms of coverage through this revenue base should be evident in the annual sector performance monitoring and reporting.

It is confirmed in the Sector Performance Report (SPR) 2014, that MWE has prioritized the provision of water in order to support economic development activities in the country through public financing of investments and cost-sharing arrangements with farmers and other developers (pg. 3) for WFP sub-sector. This PPP cost-sharing arrangement involves the government and users sharing the cost of constructing non-communal facilities using government construction equipment at below-commercial rates.

With respect to sanitation, given decentralization levels in Uganda, it is the responsibility of each local government to prioritize sanitation but the extent of promotion and implementation of sanitation by local governments varies widely. Despite the fact that a 10-year financing strategy was launched and coordination of rural sanitation has improved at national level due to the establishment of the National Sanitation Working Group, there is still scope for further coordination, particularly with respect to reporting on the various initiatives and making sure that the activities are in line with government policy and the sanitation and hygiene financing strategy.

3.3. Non-Discrimination

The principle of non-discrimination cuts across all aspects of the provisions of services for water, sanitation and hygiene. With respect to the development of the water and sanitation infrastructure, this principle requires states to provide services in priority to the unserved or underserved population. Moreover, it requires the state to undertake special steps for the provision of services to the most marginalised and poorest groups. The implementation of the principle of non-discrimination implies a clearly defined prioritization process within the WASH planning procedures setting objective and actionable criteria in order to successfully target the most disadvantaged and the poorest.

The National Constitution of Uganda confirms non-discrimination in Article 21 which states "all persons are equal before the law ... a person shall not be discriminated..." Article 32 provides for affirmative action and states "the state shall take affirmative action in favour of groups marginalized on the basis of gender ... for purposes of redressing imbalances..." Article 33 provides for the rights of women and states that "women

shall be accorded full and equal dignity ..., the state shall provide the facilities and opportunities to enhance the welfare of women ..., shall protect women and their rights ..., women shall have the right to equal treatment with men and that right shall include equal opportunities in political, economic and social activities .., women shall have affirmative action for ... redressing the imbalances created by history, tradition and or custom”.

The National Water Policy (1997) on the other hand, calls for equitable service delivery, and sets out that government will subsidize construction of the majority of rural and urban water supplies. From 2008, clear and transparent allocation criteria were been put in place for the allocation of water and sanitation resources to district local governments in Uganda. This criteria emphasizes low-cost technologies and an approach which integrates behaviour change with improving access to safe water. In terms of equity, the MWE has taken a strong stance to address the inequitable distribution of rural water services between districts by allocating more funds to underserved parts of the country. In terms of equity, initiatives to provide water for the urban poor by NWSC have been undertaken only to a small extent and on a pilot programme currently of 924 pro-poor connections i.e. subsidized connections aimed at enabling the urban poor population to access clean water services at an affordable cost.

Compared to water supply, however, there are no clear policy obligations to ensure household sanitation facilities in Ugandan policies, other than towards sewerage connections. This is irrespective of the fact that the Public Health Act calls for every building to have a latrine. The year 1997 witnessed pledges to improve sanitation in the Kampala Declaration on Sanitation but these were, on the whole, not turned into practice, largely because the responsibilities were not matched with resources. The finalization of the Integrated Sanitation and Hygiene Strategy in 2006 and more emphasis on the enforcement of by-laws have been milestones in terms of catalysing action with respect to sanitation. However, there is still a need to determine the extent to which actions on the ground translate into sanitation outcomes.

The Golden Indicator No. 7 on equity focuses on rural water supply, with the definition of equity in the indicator being “*the mean sub-county deviation from the district average in persons per water point*”. Equity is the sector performance indicator specifically intended to promote provision of equal opportunities for the water supply delivery service and minimize differences between groups of people. A lower numeric value indicates a more even distribution between sub-counties within a district. For the FY 2014/15, the equity value is estimated at 162 almost equivalent to 161, estimated in June 2014. Although the equity value increased from 153 to 161 from the previous year, the SPR 2014 confirms that this is not due to reduced inequalities but is in fact due to the increased number of administrative units through the splitting of old ones to establish new ones, (SPR, 2014 pg. 5).

It is worthwhile to note that District Local Governments can only implement low cost water supply technologies in those areas where they are feasible leaving out the water stressed sub-counties. Equity in provision of water services in DLGs is undermined by political interference in the allocation of new safe water sources as well as insufficient knowledge of DWOs on their sub-county coverage rate differences, (SPR, 2015).

The Ministry of Water and Environment together with the district local governments is undertaking measures to improve equity in water supply and sanitation provision which include updating the Water Supply Database with a focus on training of district local governments in handling management. It is foreseen that with an improved MIS, the practice of concentrating infrastructure development in particular communities and localities while neglecting other parts of the DLGs can be minimized. The Water Atlas mapping is one of Uganda’s steps intended to GPS-referenced inventory and should enable data inconsistencies regarding access and functionality to be ironed out, provide a better estimate of replacement requirements, and further improve allocation.

Additionally, the Sector Budget Support (SBS) is one of the funding modalities that advances equitable service delivery. The SBS is linked to the Joint Budget Support Framework (JBSF) which enables donors to participate in the overall policy dialogue with Government and other development partners within the Budget Support Group. Through the JBSF mechanism the achievement of key sector targets are monitored and assessed annually, creating a direct link between performance and disbursement. In addition, the

sector has an advanced and well-functioning performance measurement framework within which water sector indicators are monitored during joint sector reviews.

It should be noted, though, that the SBS is provided with the understanding that the support is for district conditional grants for both rural water supply and rural sanitation. The Government of Uganda, is one of 32 African countries, in 2008 signed the Declaration at the Second African Conference on Sanitation and Hygiene, committing itself to allocate 0.5% of its GDP to sanitation and hygiene promotion.

According to the Ministerial Policy Statement FY 2015/16 for Sector 10, Social Development (Ministry of Gender Labour and Social Development) submitted to parliament for the Debate of Revenue and expenditure April 2015,³⁰³ under

- 2.7.1.3 on gender women and rights *The Special Needs Education and Inclusive Education Policy* has been drafted, to address issues of Special Needs and Inclusive Education, Water, Sanitation and Hygiene (WASH) where technology is being improved to ensure that WASH facilities are accessible to all.
- The *Youth Livelihood Program (YLP)* has special treatment / consideration for the Youth with Disabilities (pg. xvi 28).
- 2.6.1.6 Provided technical support supervision, monitoring and mentoring to 9 Local Governments of Ibanda, Isingiro, Ntungamo, Gulu, Pader, Kitgum, Bududa, Sironko and Kapchorwa on mainstreaming equity and rights issues in their Development plans, budgets and Work plans.

Under the General strategies of the pro-Poor strategy non-discrimination is also addressed under Point No. 4 on improving sanitation and hygiene practices mentions *considerations for gender issues and people with disabilities*; Point No. 6 which emphasizes gender, people with disabilities and HIV/AIDS mainstreaming; Point No. 17 proposes extending subsidized bulk rural water supply for multi-purpose use to disadvantaged areas - lower tariffs will be considered.

In the NWSC Service Charter, the duty to serve the populations of the areas of operation with clean, reliable and safe water services is highlighted; yet this is qualified with the confirmation that distribution of water is only to all the areas where NWSC pipe network is located. This does not seem to uphold the principle of non-discrimination.

The Alma Ata Declaration of Health for All (HFA) strategy, provides significant input and guidance and paragraph 1.6 of the National Health Policy 1999 highlights that development of health sector policies and programmes have not responded to gender concerns, showing little appreciation of the way in which inequality impacts on the health of the population, (see pg. 3) and recommends that Gender relations, sexuality and sexually related behaviour must be taken into consideration in policy, planning, and service delivery for better health.

Child Poverty

A recent study by UNICEF, (2015) confirms that over the past 10 years, there has been a substantial reduction in the proportion of children deprived in terms of access to water. In 2000, at least 39% of children were deprived of access to safe water and the rate had reduced to 30% by 2011. This finding is consistent with a general decline in poverty and deprivation in Uganda over the decade. The Western region, followed by Central region, has the largest proportion of children deprived of a source of improved water in all survey years (46% and 38%, respectively, in 2011), statistics that are two to three times that of Eastern region (14% in 2011). Indeed, the Eastern region has shown the greatest improvement, with a deprivation rate that was cut by more than one half (from 32% to 14%) between 2000 and 2011.

The 20 percentage point reduction in Northern Uganda was the greatest absolute reduction, whereas it only fell by 5 percentage points in Western region. Children in rural areas are about three times more likely to lack access to improved water sources than their urban counterparts in 2011. Overall, the water deprivation rates have been cut by one quarter in rural areas and by about 10 per cent in urban areas since 2000. While the share of children with access to an improved water source fell from 39 to 30.5%, the share of children living more than 30 and 60 minutes (return) from the nearest

³⁰³ Parliament Watch Uganda: www.parliamentwatch.ug.

source of water has remained close to 60 and 36%, respectively. Distances to the nearest source of water are greatest in the North (73% requiring more than 30 minutes) and rural Uganda (66% requiring more than 30 minutes).

For sanitation, more than one in ten children, almost all located in rural areas, lack access to any toilet, down from 14.6% in 2000. Nearly one third (29%) use an unimproved toilet (generally uncovered pit latrines) and over 40% use either an unimproved or shared toilet. There are substantial disparities in sanitation deprivation in Uganda. For instance, the proportion of children with no toilet in the North is more than seven times that of the Central region, with Eastern Uganda roughly in the middle. The poorest quintile is by far the most affected (e.g. 36% without any toilet).

[Source: *Child Poverty Report UNICEF: Statistical Analysis*]

There are some elements on discrimination evident in the implementation of the NWP 1999: The NWP 1999 mentions the National Environment Management Policy 1994, and Statute 1995 which has a key policy objective on water resources conservation and management water quality noting that “... to sustainably manage and develop the water resources in a coordinated and integrated manner so as to provide *water of acceptable quality for all social and economic needs...*”

Section 54 2(b) relates to recovery of capital costs and makes provision for exemption *on the following grounds: (i) poverty of the owner of land; or (ii) that payment would cause undue hardship*. However, it should be noted that there is no mention of targeting marginalized or vulnerable groups under performance contracts of Water and Sewerage authorities Section 48. Furthermore the following sections which give discretionary powers to the service provider on service delivery and tariff setting are likely to promote discrimination in supply of water or sanitation services:

Section 49 *The supply of any services by an authority to any person shall be a discretion of the authority; but where the authority chooses to supply services, the water or other service quality shall be that required by regulations or by a performance contract with the authority.*

Section 55 (3) Where, in the opinion of the water authority, the cost of extending existing works to supply water to an applicant is not commensurate with sums likely to be recovered from water charges, the authority may require the applicant to meet the costs of extending the existing works as a condition of providing supply.

3.4. Access to information

Access to information refers to the public entitlement to seek and receive information about the current and planned water and sanitation law, policies and programmes. This encompasses the duty of the state to make information available, including for example on the provision of services, tariff systems and the quality of water and sanitation. Only informed users of water and sanitation services will be able to voice concerns and hold entities to account. Consequently, states must make resource allocations and relevant financial information on public and private water services providers publicly available. States should disseminate information through channels that are easily accessible by all and ensure the widest possible circulation. This includes the dissemination through for example local radio, billboards, newspapers or information centres. In some countries the digitalisation of information and the use of internet may be a good way to reach out to people. States must ensure that information is translated in all relevant languages and dialects and ensure that people who are unable to read can access information through other means, such as radio and through information centres. In any case, it is crucial that states always consider the particular needs of the individuals or groups that have an interest in the information available.

As states must always ensure equality in access to information, special measures may have to be undertaken in order to make information available to people who are often not reached. States must therefore ensure that everyone can equally access awareness raising programmes and education (on for example hygiene education and the effect of sanitation on health and the environment).

The NWP policy (see Chapter 4 under section 4.3.4. data collection and data dissemination) confirms that the Government shall promote public information and awareness by: *(i) establishing and sustaining a monitoring and assessment system for water resources, (ii) establishment of a management information system (MIS) at all levels, (iii) dissemination of relevant information for planning, development and use of water resources.*

Sector Strategy documents like the NWQMS has as one of its goals (see Goal 1) *to promote awareness and education on water quality management for all stakeholders noting that it should be ensured that: a) specific efforts are made to inform, educate and train citizens, stakeholders, leaders about water qualityb) Education and cooperative action at the regional level and beyond are the foundation of comprehensive water quality planning that responds to the physical conditions and water quality issues of the specific region (see pg. 21).*

To promote access to information on data on water quality, Goal 5 - Ensure generation of accurate and reliable water quality information for decision support highlights the need for a) research, planning, standards, and decision making in all water resources programs to be supported by information systems that are broadly accessible, comprehensive, and based on the best available technical and scientific data, information, principles and management practices; and to have b) timely and effective information, education and involvement strategies for general public, permit holders, advocacy groups and other stakeholders who should be included as part of the national water quality management program.

For water supply, the Water Act, Section 61 makes provision for public notices for water restrictions, while Section 55 provides for notices for declaration of completed water supplies. It is, for instance, confirmed in the NWSC service charter that disconnections for non-payment are preceded with a disconnection notice seven days before the disconnection is effected, while reconnection is effected within six hours of the customer meeting the requirements including reconnection fee payment. With respect to access to information at the level of complaint mechanisms, NWSC has a fully operational, modern and efficient call centre with a toll free number 0800100977 which makes it possible for the customers to call in and interact 24/7 with our staff at no cost. It is an effective media that enables us receive and respond to customer inquiries, requests and complaints. "We are able to give instant responses to some inquiries/ requests, process and get back to our customers in cases where time is required to rectify or act on customer inquiries/ requests"

In the guidelines, the issue of access to information is integrated into several consultation procedures and opportunities pertaining to the planning, designing phase in the frame of the demand responsive approach as well as O&M in the frame of community-based management system and monitoring activities on water quality, environment and water source protection. Access to information on tariff and financial situation of the facility, for instance, is expected through rural water sources applying CBMS, the community of users should inform each other. As manager of the facility, the Water and Sanitation Committee are recommended to share information as frequently as possible during meetings, display of poster in public places and share bank statements in case a bank account is used.³⁰⁴ Information on water quality should for instance be communicated within the frame of the routine surveillance implemented by District staff.³⁰⁵

Regarding small towns and RGCs, the performance contracts signed between the MWE and Water Supply and Sewerage Authorities (WSSA) stipulates that, besides information on his individual records, any customer or former customer may request to the authority a copy of the relevant records pertaining to the financial operation and the financial position of the authority against a reasonable charge for the copy.³⁰⁶ Whereas this contract does not mention obligation to publish tariff information that the WSSA set in the Business Plan with MWE approval, the management contract signed between the WSSA and the private operator in charge of the supply does mention the duty of the authority to publish from time to time a schedule of approved tariffs, fees, rates and charges.³⁰⁷ Regarding water quality, no information has been found on the obligation to publish or allow public access of the water quality monitoring reports performed by the private operators under the WSDF supervision.

³⁰⁴ MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 26.

³⁰⁵ Ibid. p. 12.

³⁰⁶ MWE, Performance Contract for Water Supply and Sewerage Authorities: art. 4.9.5.

³⁰⁷ MWE, Management Contract for Water Supply and Sanitation Services: art. 9.1.3.

Enforcing the Access to Information Mechanism

Despite the government passing the Access to Information Law, there are still challenges to its use. First of all, the government has not developed specific guidelines for the implementation of the law on access to information. These guidelines should be developed and shared with all responsible officers under the act to guide them on implementation of specific aspects of the law. For example, Section 39 of the Access to Information Act 2005 provides that the rules committee shall, within six months after the enactment of the act, make rules of procedure to regulate the procedure made under the same act. The same section goes on to say that these rules of procedure will regulate the procedures. However, the regulations have never been made, delaying the effective operationalization of the law.

Secondly, the Act actually doesn't repeal the Official Secrets Act which creates barriers to citizen access to information other than that which would interfere with the security of the state. Due to this, it is sometimes difficult for citizens to use the Access to Information Law alone to get access to records such as those which are up-to-date. Information may be accessed but at a cost of photocopying and other costs that emerge from the information source.

The law is in place, but in practice but it depends on the willingness of the information holder because there is no information about how to pursue information that is denied.

[Source: Ogillo Mark Pascal, *The effectiveness of access to information Act No.6 of 2005 in promoting participatory development in Uganda: A dissertation presented to the Faculty of Law Makerere University 2011*].

For sanitation access to information that is mentioned in the First draft National Sanitation Policy 1997 in relation to information on monitoring of sanitation programmes which should be shared with the community, the district and national structures. As detailed, such information should include identification of good local hygiene practices which need to be supported and scaled up; local hygiene practice problems need to be addressed; the "baseline" against which achievements can be measured using behavioural indicators of success; and the sanitation promotion activity plan itself. The policy further elaborates access to information by potential users of sanitation technologies on both capital and operation costs for the range of options available to them in order to make informed economic and socially acceptable choices.

Challenges on access to information

In line with the decentralization policy, district local governments and urban councils are mandated to provide information that enables communities to make informed decisions related to water supply and sanitation services such as technology choice, location of facilities and service level. However, in practice this provision does not seem to translate to practice at the level of technological options since the level of engagement in decision-making by communities is quite low.

Although guidelines to ensure that important information on water issues is disseminated to the public exist, there is inadequate clarity in the guidelines that require all relevant actors, including local governments and water and sewerage authorities, as appropriate, to publish all information impacting on users well-being and especially if actions pose a threat to health, affordability and acceptability. In rural areas, the key challenge is the failure by the DLGs to follow these guidelines and sometimes misuse of software funds meant to provide the relevant information to communities.

In addition, at the level of improving governance and accountability, the SPR (2015) confirms that,

...no department has a concrete measure of implementing incentives and sanctions. The available sanction to ministry staff is through staff appraisals and reprimand by writing to the staff. Rural water supply department can only inform the Chief Administrative Officer in writing of a District Water Office not meeting performance standards. The regulation department and the urban water and sanitation department are equally challenged by the institutional arrangement. The "Name & Shame" may be the only available incentive/sanction that can be applied, (see SPR 2015: 222).

3.5. Participation

Participation must be active, free and meaningful. It must go beyond mere information-sharing and superficial consultation, and involve people in decision-making; providing real opportunities to influence the planning process. The organisation of a truly participatory process is challenging. Different mechanisms

and approaches are to be adopted, including consultations with various stakeholders, public meetings and hearings as well as the opportunity to submit written comments and feedback.”³⁰⁸

“Systematic participation is crucial in every phase of the planning cycle; from diagnosis to target setting, and from implementation to monitoring and evaluation”³⁰⁹. Also, all decision-making, actions and development of legislation must be based on meaningful participation of stakeholders. This includes that people must be made aware of the possibilities to participate, and opportunities to participate must reach out to all stakeholders and be organised at times and locations convenient for them to attend.

3.5.1. Participation of local governments

The National Water Policy, confirms that the government has put measures in place to facilitate *the participation of local government in decision-making processes, under the Local Government Act, 1997*, and has adopted an elaborate decentralized system of government where public service delivery; water, health, primary and secondary education, is a responsibility of Local Governments. Through this decentralized process, the functions, powers and services are devolved and transferred from Central Government to Local Governments in order to increase local democratic control and participation in decision making, and to mobilize support for a development relevant to local needs. For instance water services and maintenance of facilities is the responsibility of local councils in districts and urban centres with support and guidance of relevant central government agencies.

While policies, regulations, drinking water standards and coordination of MWE sector activities are undertaken at national level, the NWP clearly details the participation of the different actors at the different levels. For water resource management for instance [NWP chapter 4 under 4.4.] indicates that *based on the guidelines from the relevant sector agencies, the districts will set local priorities, by-laws and annual action plans regarding the use of water resources such as fish ponds, irrigated areas, livestock watering, rural and urban domestic water supplies. The local level groups, within the framework of national and district policies, can manage the use of the resources, through local decision-making bodies such as the Village (LC1) and Sub- County Committees (LC3). The full participation of the communities must be promoted and ensured.*

It is not clear how the prescribed Water Policy Committee under Section 9 (page8) captures representation from civil society/local/community levels in its composition. Yet the Committee plays crucial functions including decision-making for the sector. Part of the functions of the water policy committee is: (b) to coordinate the preparation, implementation and amendment of the water action plan and to recommend the water action plan to the Minister; d) to review the law relating to water and advise the Minister on any amendments that may be required for the improvement or better administration of that law; (e) to advise the responsible Minister, as the case may require, on any dispute between agencies involved in water management that may be referred to it.

3.5.2. Participation of beneficiaries

The public trust role [see Water Act 2000] requires the Government to establish systems to involve those affected, or their representatives, in weighing up the options on an informed basis, for the process of balancing social and economic benefits as well as of determining environmental objectives. Further provision is made for formation and operations of Water User Groups and water and sanitation committees Section 50, 51 & water user associations under the direction of the Director and to be organized by the local authorities.

The NWP further lays down a number of notable strategies through which participation of beneficiaries, women, private sector, NGOs and CBOs can be achieved, *i.e.*

1. The beneficiaries and the private sector in the decision making process and in the management of resources at the lowest appropriate level;
2. The essential role of women in the provision, management and safeguarding of water and in health and hygiene promotion is recognized; and

³⁰⁸ UNHRC Planning report (n3): p. 68.

³⁰⁹ Ibid. p. 68.

3. The role of non-governmental organization and Community Based Organisation in water supply and sanitation provision in rural and peri-urban areas is recognized. These organizations supplement the efforts of the public sector and help to ensure that the concerns of the underprivileged are incorporated in the national development process. Government pledges to strengthen its relationship with NGOs and CBOs through the establishment of a regular forum for information exchange as well as formulation of guidelines for harmonized and coordinated operations.
4. The NWQMS calls for the participation of all citizens in conserving and protecting the water quality and quantity of Uganda and emphasizes that “Sound water quality management involves meaningful participation, coordination and cooperation of all stakeholders” pg. 20.
5. The Water Act 2000 allows for the formation of Water and Sanitation Committees (WSC) at local level to develop and manage water and sanitation facilities and being responsible for planning and management of water systems, including collection and utilization of revenue.

3.5.3. Participation of women

One of the guiding principles of the Water Statute is *“To recognize the role women play in the provision, maintenance of water”*. The National Water Policy (NWP), recognizes the importance of gender and states that women’s involvement in design, construction, operation and maintenance of improved water supply and sanitation facilities should be supported through training. One of its guiding principles states that *“institutional reforms promoting an integrated approach, including changes in procedures, attitudes and behaviour and the full participation of women at all levels in sector institutions and in institution making”*.

The National Sanitation Policy 1997 equally calls for participation of communities including women in decision-making at all levels of service. In particular, the sanitation policy emphasizes the recognition of the pivotal role of women and their organizations in the provision, improvement, use and maintenance of sanitation services and reinforces the need to involve them in planning, implementation, monitoring and evaluation of sanitation programmes.

The NWP reiterates the level of participation of women by specifying that women and men should have equal opportunity to participate fully in all aspects of community based management. The policy also emphasizes that under the Community Based Maintenance System, a WUC should have at least 50% women representatives as one of the six critical requirements specifically outlining the meaningful involvement of women by electing them on committees. In this sense it is clear that the water and environment sector has promoted the participation of women (in key positions of chairperson, treasurer or secretary). According to the SPR 2014, 83% and 63% of water sources have women occupying key positions in rural and urban areas respectively. In addition, women have been trained as hand pump mechanics to support O&M of rural water facilities.

It is noted that MWE translated the 1997 National Gender Policy into the WSGSI and MGLSD has supported the MWE in policy development, development of sector guidelines and staff capacity building at the centre and in district local governments. In addition, the social sector reforms resulted into the appointment of District Gender Officers to support local governments in mainstreaming gender. This provides an opportunity for the District and Urban Water Offices to access this technical gender expertise during project and programme implementation, (WSGSII, pg. 20). The vision of the WSSGS II is an environment in which women, men and vulnerable groups can, on equal terms, access and utilize the water and sanitation resources they need in an adequate and efficient manner and in which they can determine the management of these resources and benefits. As noted in the Gender Policy, this is in line with the vision of the African Ministers’ Council on Water – AMCOW, [WSGS II pg. 23]. In the case of water for production, data from MWE (2008), shows 68% of the WfP WUCs had at least one woman, (WSGS II, pg. 19), while WfP facilities had 69% women holding key positions for valley tanks, and 45% for dams (MWE, SPR, 2014) .

The participation and role of women in the provision, management and safeguarding of water and in health and hygiene promotion is promoted through the MWE Water and Sanitation Sub-sector Gender Strategy (2010-2015), which offers a practical framework for gender mainstreaming. This strategy highlights aspects linked to enabling environment (integration of the gender perspective in policies); access to information (the enhancing awareness and capacity of all sector stakeholders); participation (improving opportunities

for women and other disadvantaged groups to access and participate in management of water and sanitation facilities and resources); and monitoring (strengthening gender disaggregated data collection in implementation processes).

Other water and environment sector policies with due consideration for gender include the Environmental Health Policy 2005, which is the national framework for services and programmes in the health sector. One of the guiding principles of the policy is that *“interventions should respond to the differing needs of men, women and children, while recognizing that women are the main users of water and sanitation facilities”*. It further recognizes that sanitation is essential for improving *“women’s dignity and provides opportunities for women to lead”*. However, apart from these general statements, the policy lacks guidelines and commitments for gender mainstreaming in environmental health programmes and activities.

In the National Environmental Management Policy 1994 *“Effective involvement of women and youth in natural resource policy formulation, planning, decision making, management and program implementation is essential and should be encouraged”*. The policy provides for integration of gender concerns in environmental policy planning, decision making and implementation at all levels to ensure sustainable social economic development.

The Poverty Eradication Action Plan (PEAP) and subsequently, the national development Plan (NDP), identify the importance of gender mainstreaming in all interventions including policy formulation and planning and guides public actions to eradicate poverty. The PEAP identifies issues like inadequate capacity to apply gender analysis skills, limited gender awareness among the communities, bureaucratic resistance among decision makers and weak support in supervision and monitoring as key reasons for low gender responsiveness in Uganda. Although PEAP mentions gender in its introduction, it lacks a specific section that addresses gender and other cross-cutting issues. It points out the importance of gender in areas like agricultural production, legal discrimination and wood fuel shortage but omitted its importance in the WSS.

At the level of monitoring, one main indicator for gender mainstreaming is included in the Golden Indicator 10 of the sector monitoring framework *% of community management structures /committees with women holding key positions*. This is included as an outcome indicator for theme 5 under the SPS component, but not under the components / theme areas for RWSS, UWSS, and WfP where it would be more directly linked to outputs and activities. The gender indicator is applicable to both urban and rural committees and gives the ratio of WSCs with at least one woman in a key position versus the total number of functional WSCs in the same area. Thus the formula for this gender indicator is as follows:

$$\text{Gender} = \frac{\text{total communally managed sources with a woman in a key position}}{\text{total communally managed sources with a functional WSC}}$$

It should be noted that in the calculations of this formula functional water sources that are not used are not considered; gender was calculated from sources with any established WSC in 2010, this was changed in 2013 to be calculated from sources with functioning WSC only. Both gender indicators are calculated in the database; and as functional WSC, only WSCs were considered which collect fees, undertake repairs or hold meeting. This was changed in 2015 to also consider WSCs as functional if they clean the environment/sanitation around the source only.

The gender strategy includes other indicators and targets, e.g. on capacity development related to gender mainstreaming. Although a study on climate change and gender, with interviews at community level, has been conducted recently and a training manual on gender mainstreaming developed, there is no gender-mainstreaming strategy for ENR sub-sector.

The current level of participation of women as highlighted here is a result of sensitization and training initiatives undertaken by the district local government staff. One of the critical requirements for accessing rural water supply is the need to have 50% representation of women on committees and at least one holding a key position. Up to 8% of the Water & Sanitation Conditional Grant to DLGs should be allocated to *“software”* activities (community mobilization, WSC training, hygiene and sanitation promotion).

The Sector Performance Report, 2014, confirms women's participation as being at the following levels: Total staffing - 32% Top management - 23%; Middle management - 25%; Women representation at top management in DWD - 0%; Women representation at middle management in DWD is 2.5%; Women representation at top management in the Directorate of Water Resources Management (DWRM) - 33%; Town boards with women holding key positions is at 63%; and 69% for valley tanks; 45% for dams (SPR 2014). Private Water Operators have given opportunity to women to manage water kiosks and selling water at yard taps. 83% WSCs have women occupying key positions. Source: SPR, 2014

The actual allocation varies across districts and sometimes misallocated to other activities. Software Steps, the District Implementation Manual and the Rural Water Supply and Extension Workers' Community Management Handbook were revised to ensure that the district local governments carry out the software activities in an organized and appropriate manner. Specifically, the Extension Workers' Handbook is aimed to aid extension staff/workers in mobilizing and training communities

in a participatory manner to ensure demand, gender responsive, equitable and inclusive implementation of water and sanitation activities, and to ensure sustainability of water supply and sanitation facilities.

At the level of reporting at district level, gender aspects have been integrated into the district reporting mechanism: In 2009, the sector developed a software reporting template to guide districts on software reporting. District local governments submit software reports on an annual basis. In 2014, 103 out of 112 districts (91.6%) reported on the WSS gender indicator. They reported on WSC formed/trained/reactivated; advocacy meetings conducted; private sector training; vulnerable groups supported to access WASH services and HIV/AIDS mainstreaming. Data on all these aspects is gender disaggregated. Other MWE departments have also improved on reporting on gender as reflected in the annual sector performance reports.

3.5.4. Participation of the Private sector

Stakeholder analysis at TSU level confirmed that, in practice, the sector is still male-dominated and this is attributed to the fact that the sector activities are mainly on water engineering which is at present predominantly a male-domain in Uganda. To mitigate this imbalance, the National Water and Sewerage Corporation in 2010 initiated the "Girls Day" to involve more women in the sector. This is an annual event with the aim of making NWSC a model utility for promoting and increasing gender equality in the WSS service delivery through the empowerment of women. The Girls Day is designed to create interest among female students to take up careers in water supply and sanitation. A group of female students spends two days at NWSC attending presentations and interacting with female staff. They get an insight into the work environment by visiting NWSC offices and water treatment and sewerage works. In addition, NWSC also strives to provide good working conditions for women through flexible arrangements where young mothers can have extended leave (12 months of unpaid leave) while their job is protected and can also work part-time as they take care of young children.

In the National Sanitation Policy 1997, the role of the private sector is encouraged as part of the ways of ensuring appropriate technological choices and in supplementing households, communities and local authorities in the demand for and provision of sanitation facilities by providing appropriate services at competitive rates. Some of the proposed support from the private sector in the policy include provision of specialist skills and crafts, soap manufacture and distribution, solid waste collection and disposal and other services as appropriate. While promoting the engagement of the private sector, the policy recognizes the need for the use of tools of privacy, status, convenience, gender sensitivity. In addition, to ensure cost-recovery the policy advocates for the promotion of both "user-pays" and "polluter-pays" principles is advocated for in this policy to ensure cost-recovery and environmental protection. In addition, the role of the private sector in promoting access to safe sanitation is understood in this policy to include promotion of local business development.

3.5.5. Role of Civil society/NGOs

Article 38 of Uganda's Constitution 1995 guarantees the right of every Ugandan to engage in peaceful activities to influence the policies of Government through civic organizations. Freedom of association is similarly enshrined in the Universal Declaration of Human Rights (UDHR) of 1948 to which Uganda is signatory. In the National NGO Policy 2010³¹⁰ the Government fully acknowledges and recognizes the key

³¹⁰ Ministry of Internal Affairs. *National NGO Policy 2010: Strengthening partnerships for Development*.

role Non-Governmental Organizations (NGOs) play in service delivery especially to marginalized groups, and improving accountability of public institutions. Furthermore, the Local Government Act 1997 specifically provides Civil Society Organizations with an important role in service delivery at community level.

At the regional level, the Treaty for East African Cooperation (EAC) advocates for the promotion of a supportive operational environment for NGOs. The Treaty enjoins Member States to facilitate and ensure public participation and civic involvement in decision making both at national and regional level. Similarly, the vision and principles of the African Peer Review Mechanism (APRM)/New Partnerships for Africa's Development (NEPAD) to which Uganda subscribes underscore the pivotal role of civil society in sustainable national social, economic and democratic development. Most significantly, Government enacted the 1989 NGO Statute and more recently, the Non-Governmental Organizations Registration (Amendment) Act 2006.

Public Participation of NGOs in policy-making, legal and procedural changes are defined in the following objectives of this policy:

- Obj. i) to define NGOs and their role with a view to *promoting increased citizen participation in policy-making processes and development issues (pg.22); and*
- Obj. iii) to *provide for legal, policy and procedural changes that will allow NGOs to effectively contribute to national and district development planning in a harmonized manner; (pg. 22).*

The determination of the necessary institutional framework for implementing the NGO Policy was motivated by among other considerations *the need to strengthen mechanisms through which NGOs generate policy debate and channel the contribution of the NGO sector to Uganda's development at central and lower levels, (pg. 24).* The objectives of the NGO's Policy implementation arrangements include:

- i) Clarify and rationalize the role and responsibilities, rights and obligations of NGO actors; and
- ii) Clarify the role and responsibilities, rights and obligations of other actors.

The role of NGOs and CBOs in supplementing households, communities and Local Authorities in the Fulfilment of their sanitation-related obligations is emphasized in the National Sanitation Policy 1997 under section 11.4.

3.5.6. Participation by the poor as defined in the pro-poor Strategy 2006

Point No.6 of the Pro-Poor Strategy 2006 explicitly mentions ensuring the participation and adequate representation of vulnerable groups in management of services at all levels as part of the gender, people with disabilities and HIV/AIDS mainstreaming and prioritization for service delivery (*see pg. 6*). While there is evidence of actual initiatives having been undertaken by districts and NGOs to support the disadvantaged and vulnerable groups such as construction of latrines for PWDs and children in primary schools; provision of RWH tanks for PWDs and construction of public latrine facilities for the urban poor (SPR, 2014 pgs. 156 & 157), the actual participation of vulnerable groups in planning and management processes is not obvious. Besides, this representation cannot happen without a clear definition of who the vulnerable groups are (geographical, social and economic definitions). The pro-poor strategy in fact fails to provide this background information on who specifically the poor are.

Under the section on General Strategies of the Pro-Poor Strategy 2006 there is reference to the IWRM (*see Point No. 7*) recommending participatory mechanisms such as through Water User Associations (WUA), Water Boards or Catchment Agencies. It is indicated that such mechanisms 'give the poor a voice' on management of water resource which may affect their livelihoods. It is not clear however how DWRM, which is now an autonomous department and with the direct mandate for water resources management, engages in the implementation of this relevant points of the strategy since it is not listed as one of the institutions responsible for achieving the overall goal of this relevant points of the strategy. The review of literature did not reflect how the poor have actually been incorporated into the participatory mechanisms of water resources management such as WUAs as implied. This is despite the fact that Point 34 under the Water Resources Management Strategies talks about promoting management of water resources at the lowest level as it will benefit the poor and lead to greater decision-making. While catchment management organizations and committees have played a key role in guiding the preparation and implementation of the Catchment Management Plans (2014 SPR pg.105), it would be good to find establish how the poor and other vulnerable groups can be expressly represented in these structures.

Point No. 8 emphasizes the empowerment of communities through participation (in decision making processes and in managing facilities) to ensure cross-subsidy. In Rural Water Supply, this is proposed to be mainstreamed through the Rural Sector Guidelines. The Rural Water Supply & Sanitation Handbook – Volume I : Community Management was reviewed and updated in 2014 and it has a number of cross cutting aspects that have to be mainstreamed by the district local governments, CSOs/NGOs during the planning, implementation, M&E of WASH services delivery, including gender, PWDs, HIV/AIDS, Human Rights and the participation of children. The participation of children is only evident in the CSO engagements and school health clubs as reported in SPR 2015 `all WUC had women representatives *while some NGOs included slots for youth and children*. School Health Clubs were also formed putting into consideration the gender distribution`.

In Water for Production (WfP) participatory approaches for empowering the poorest of the poor and especially women will be adopted so that they participate in management of the water facilities put in place – see Point No. 16 pg. 9. In the MWE, SPR 2014, this participation is confirmed for the WfP facilities with women holding key positions is 69% for valley tanks, 45% for dams.

Point No. 34 - Decentralize management of Water Resources - Management of water resources at the lowest appropriate level should be promoted as it will benefit the poor and lead to greater decision-making at local levels. The poor, including women, will be able to make decisions regarding monitoring, assessment, regulation and allocation of water resources and thus ensure that their interests regarding access to adequate and safe water are properly addressed.

Given the above evidence of strong provisions on participation in the policy framework, it should be noted that the HRWS can only be realised in an effective manner when people become part of all processes that relate to the realisation of these rights. Participation ensures better implementation and enhances the effectiveness and sustainability of interventions, as it ensures that local conditions and needs can be taken into account. Opportunities for participation, including community needs assessments, must be established as early as possible. Any plan or decision-making that relate to the realisation of the HRWS must be developed through a participatory and transparent process.

The representation of disadvantaged and at-risk people and communities to ensure that participation is not only for a few well-established NGOs or local elites is emphasized, as well as civil society organisations, community-based organisations, national human rights institutions, academia and research institutions, the private sector and above all communities and people concerned themselves, with a special emphasis on women inputs.³¹¹ This means that the government must ensure clear procedures and processes for the identification/mapping of vulnerable and marginalized communities in order to promote equal access to participation opportunities, especially for those that are often excluded and marginalised, for example for women and children. In this process the challenge is often to define at policy level: who should be responsible for the identification of vulnerable and marginalized groups - public authority, communities, NGOs - this needs to be specified in the policy in order to have meaningful participation (rather than forcing every local water management board into having 50% women representation).

Despite the participatory procedures put in place by the government to support the water and environment sector process of planning, implementation and monitoring, the actual realization by MWE is not amounting to meaningful participation particularly at community level. This review for instance confirms that community participation in the project cycle does not show much contribution to the decisions on choice of technologies and yet in rural areas this impacts on their economic contribution towards O and M and eventually sustainability of facilities. In some instances, community members wished for a more expensive level of service, but instead received a less costly one, for example a borehole instead of a piped scheme, or a protected source instead of a borehole. The table below from a study on community participation confirms this gap:

³¹¹ Ibid, p. 70; “groups that should have opportunities to participate include civil society organisations, community-based organisations, national human rights institutions, academia and research institutions, the private sector and above all communities and people concerned themselves, with a special emphasis on women inputs.”

Table 8: Percentage of Schemes Using Participatory versus Non-Participatory Approaches in Rural Water Scheme and Investment

Row #	Planning and Investment Actions	Use participatory Approach	Use Non-Participatory Approach	Explanation of Coding
1	Initiate request for scheme	56%	41%	Participatory = community members or leaders Non-participatory = govt., NGO, or other persons
2	Households contributed to construction	60%	40%	Participatory = yes Non-participatory = no
3	Community participated in construction supervision	64%	31%	Participatory = yes Non-participatory = no
4	Community participated in choice of technology	36%	64%	Participatory = yes Non-participatory = no
5	Community made final decision on choice of technology	20%	80%	Participatory = yes Non-participatory = no
6	Households pay for O&M	54%	46%	Participatory = yes Non-participatory = no

Notes: Some percentages do not add to 100% due to rounding, missing data/don't know, or both. N=160 schemes in 32 sub-counties in 16 districts.

Source: Asingwire 2011, at 33-34.

There is evidence of the government's consideration of the right of the communities and the different groups to participate in decision-making processes, and participation clearly forms an integral part of the current water and environment policies, strategies and guidelines. However, it appears that in practice, the users of the infrastructure and services do not fully exercise their right given that they do not seem to have much contribution to the final selection of the technology affordable and acceptable to them.

3.6. Accountability

Good governance is essential to the effective implementation of all human rights, including the realization of the right to water.³¹² The General Comment No.15 elaborates the principle of accountability and highlights the following key considerations for governments:

- Taking appropriate steps to ensure that the private business sector, civil society and international organizations are aware of, and consider the importance of, the right to water in pursuing their activities;
- Sufficient coordination between the national ministries, regional and local authorities in order to reconcile water-related policies; and
- In cases where delivery of safe water and sanitation is delegated the government has to ensure that such authorities have at their disposal sufficient resources to maintain and extend the necessary water services and facilities and that such authorities do not deny access to services on a discriminatory basis.
- Ensuring access to effective judicial or other appropriate remedies for any persons or groups who have been denied their right to water. All victims of violations of the right to water should be entitled to adequate reparation, including restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.

It is important to take note of the expectations from government or delegated authority with respect to taking actions that interfere with an individual's right to water and sanitation.

The relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises:

- (a) opportunity for genuine consultation with those affected;
- (b) timely and full disclosure of information on the proposed measures;
- (c) reasonable notice of proposed actions;
- (d) legal recourse and remedies for those affected; and

³¹² General Comment No. 15 paragraph 49.

(e) legal assistance for obtaining legal remedies (*see also* General Comments No. 4 (1991) and No. 7 (1997)).

Where such action is based on a person's failure to pay for water their capacity to pay must be taken into account. Under no circumstances shall an individual be deprived of the minimum essential level of water".³¹³ This introduces the debate on willingness to pay and ability to pay which must in the first place be captured in the affordability criteria as already discussed above. This by no means implies that water should be free.

The government of Uganda recognizes that *"at the centre of service delivery is accountability, value for money, efficient and effective use of resources, improved communication and decision-making processes. If the accountability process is weak, value for money will not be realized,"* [Ministry of Local Government, 2013].³¹⁴

For accountability to be realized, the national policies and strategies that are defined to accelerate the access to safe water supply and sanitation should also establish institutional responsibility for the processes; identify resources available to attain the objectives, targets and goals; allocate resources appropriately according to institutional responsibility; and establish accountability mechanisms to ensure the implementation of the strategy.

The Ugandan 1995 Constitution provides a sound basis for ensuring good governance and it is widely acknowledged that Uganda has established institutions, policies and legal frameworks necessary for democratic governance. However, many of the institutions established in the Legislative, Executive and Judicial branches of Government are still struggling to fully embrace the ideals, principles and practices of democracy" (GoU, NDP p. 22).

The Judiciary has, on the other hand, been able to muster independence and integrity and thereby contributed to balancing power. It is also noteworthy, that the Public Accounts Committee (PAC) has been both proactive and successful in uncovering most of the recent corruption scandals. This is also supported by a vibrant CSO-community and media. The Ugandan PAC has a fairly wide range of powers. It has the power to examine accounts and financial affairs, to examine the economy, efficiency and effectiveness of government policy, to examine also the economy, and efficiency of policy implementation as well as the effectiveness of policy implementation. However, the PAC lacks the power to examine the budget estimates but has the right to examine the Auditor General's compliance and performance reports and to refer matters to the AG for investigation. It should be noted that the PAC is one of the most active in the African region - meets for about 120-200 days and holds hearings for about 120 days a year.³¹⁵

Development Partners in Uganda are of the view that the Government's commitment to controlling and pursue cases of corruption has been insufficient potentially undermining the continuance of the consistent growth of the last two decades spurred by sound macroeconomic policies. In this respect the Ombudsman has also been under-equipped to undertake the necessary amount of prosecutions.³¹⁶

Good governance is however clearly embedded in Uganda's planning framework that consists of three key documents: The Budget Framework Paper (BFP), the African Peer Review Mechanism (APRM) and the National Development Plan (NDP 1 and 2) that provide the visions, targets and programmes of the Government of Uganda (GoU). The key NDP objective (vii) is on 'Strengthening good governance, defence and security' while the development objective of the UGOGO programme which is closely linked to this objective is *'equitable growth, poverty reduction, rule of law and long-term stability in Uganda'*. The programme components are as well aligned with the APRM and the national programmes under this mechanism. The actual *Uganda APRM National Programme of Action* has informed some of the components and it is envisioned that alignment will be upheld during programme implementation. When GoU institutions are supported, it is fully aligned to the strategies of the institutions. In addition the UGOGO

³¹³ General Comment No. 15 paragraph 56.

³¹⁴ Ministry of Local Government 2013: Handbook for Principles of Service Delivery in Uganda's Local Government.

³¹⁵ Riccardo Pelizzo, March 2014 Country report: Report of the Public Accounts Committee in Uganda. Available at http://works.bepress.com/cgi/viewcontent.cgi?article=1110&context=riccardo_pelizzo. Accessed on 16.12.2015

³¹⁶ Ugandan Good Governance Programme (UGOGO) 2011 – 2016.

has various elements that support the GoU's Peace, Recovery and Development Programme (PRDP) for Northern Uganda.

The Ministry of Water and Environment has a limited mandate in enforcing governance in the sector. The MWE is mandated with the provision of water and sewerage services, yet the mandate on Local Government management, civil servants regulations, finance distribution and finance audit is given to the Ministry of Local Governments, Ministry of Public Service, Ministry of Finance Planning and Economic Development and Office of the Auditor General respectively. This limited mandate affects the implementation of direct incentives and sanctions that are very important in enforcing good governance practices. There are still evidenced challenges especially towards the implementation of incentives and sanctions, implementing the rule of law and governance at lower levels of administration.

This notwithstanding, the Government of Uganda has sought to improve governance in the water and sanitation services sector since 2003. A multi-stakeholder Good Governance Sub-Sector Working Group (GGWG) was established in 2006 within the MWE to improve transparency and accountability. The GGWG is established under the Water and Sanitation Sector Working Group (WSSWG) and report on the Good Governance Action Plan (GGAP) at every WSSWG meeting. Between 2007 and 2008 the GGWG implemented its first joint action plan based on the findings of Value for Money, Cost Variation and Fiduciary Risk assessment studies. However, despite these laudable actions, progress in implementing many of the measures or engaging with other non-state stakeholders was slow and implementation of the action plan missed agreed targets.

In 2008, the GGWG initiated two studies, with the support of the Water and Sanitation Program (WSP) of the World Bank and the Water Integrity Network. The first study undertaken was a Risk and Opportunity Mapping Study designed to assess risks and opportunities to promote good governance in the Ugandan Water Supply and Sanitation (WSS) sector, based on existing data, legislation and interviews with key informants. The second study was a nation-wide quantitative Baseline Survey, focusing on experiences of corruption among water service providers and consumers.

In September 2009, following completion of the studies, a two-day National Water Integrity Workshop was held in Kampala with key sector stakeholders who validated the findings of the studies and jointly agreed on selected recommendations to update the existing Good Governance Action Plan (GGAP). Key recommendations (some of which are still relevant) included to:

- i) strengthen political will to ensure integrity in the water sector at all levels;
- ii) introduce independent regulation functions to remove conflicts of interest in oversight agencies; strengthen corporate governance of urban water providers;
- iii) enforce MWE sector guidelines to local government and ensure high-quality rural water supply facilities;
- iv) build the capacity of civil society organizations development partners and the media to monitor and hold the sector to account;
- v) build local government capacity in contract handling and management;
- vi) support the right to information and adoption of consumer charters and innovative outreach programmes; improve procurement and contract management processes;
- vii) adopt the use of Integrity Pacts – a signed promise between the government and bidders that neither side will offer, demand or accept bribes during the bidding for and execution of contracts;
- viii) strengthen and formalize links between the water sector and integrity institutions, including the Public Procurement Development Authority, the Directorate of Ethics and Integrity and the anti-corruption courts. This should be done through joint training, and whistleblowing and outreach initiatives.

The GGWG was tasked to follow up and report progress on the implementation of the updated action plan. Uganda is one of the few countries in Africa to place corruption in the water sector high on the development agenda by pursuing an explicit anti-corruption strategy in the provision of water supply and sanitation (WSS) services. There is however limited finances to cater for monitoring and evaluation of the GGAP and yet there is need to follow-up, monitor and evaluate the activities of the individual members of the GGWG. This is further hindered by the limited mandate of the group to enforce governance practices. There are

delays in the rural department in implementing the DWSCG allocation formula. The process of preparing for the likely effects has gone on for two years, too long a period, yet continuing to subject the underserved to water insecurity. The department is advised on the risk of the negotiations with the districts and argued to be firm enough not to be trounced by the powerful districts with better service delivery.

In the environment and natural resources sector, The MWE instituted the Environment and Natural Resources Good Governance Working group (ENR-GG-WG) in 2011, comprising of representatives from the departments within the Directorate of Environment Affairs, environment agencies within the ministry, civil society and academia. The working group developed a governance action plan for the period 2013-2016, which spells out the actions and interventions of the Government of Uganda designed to address the current governance challenges in the Environment and Natural Resources Sub sector. The SPR 2015 has highlighted some challenges facing the implementation of the ENR-GG-WG which include:

1. Long court processes, sometimes resulting in disappearance of evidence
2. Some environmental degraders become hostile to enforcement officers
3. Environmental crime occurs usually at night, during weekends or public holidays when the inspectors are not at work
4. Some environmental degraders secure court injunctions deterring environmental inspectors from taking action
5. Unprofessional behaviour of environmental practitioners in regard environmental impact studies and
6. Penalties in courts of law are not deterrent enough

There is therefore a need for more sensitization of judicial officers on the need to handle court courses expeditiously; for provision of adequate resources in terms of personnel and funds; and for inspections to be carried out all the time.

Development partners in the WASH sector in Uganda contribute to the governance through such programmes as the UGOGO programme, a Danish support to Good Governance in Uganda for the five year period July 2011 to June 2016 with a budget total of DKK 320 million (approximately UGX 146 billion). UGOGO puts strong emphasis on both the supply and demand side of democratic development, peace-building, provision of justice, human rights, accountability and better service delivery. Such interventions reflect the programme's balanced and broad-based approach to governance, and they are all key to achieve the development objective; 'Equitable growth, poverty reduction, rule of law and long-term stability in Uganda'. The development objective is closely aligned to Uganda's National Development Plan and to the African Peer-Review Mechanism. The programme consists of three components:

- i) **The Democratic Governance Facility (DGF)** intended to implement support to civil society and government institutions through three sub-components: Deepening Democracy; Rights, Justice and Peace and Voice and Accountability. This integrative programmatic approach in DGF enhances effectiveness and efficiency in delivering on the objectives, advances donor (i.e. Denmark, the Netherlands, Sweden, Norway, Ireland, UK, Austria and the EU Commission) harmonization and also provides synergy across components in pursuance of crosscutting priority themes like conflict resolution, land rights and anti-corruption.
- ii) **Support to Justice, Law and Order Sector** which focuses on promotion of the rule of law. This includes direct support to the Judiciary concentrating on improving the efficiency and effectiveness of the institution as well as reforms in the High Court, development and implementation of a new Judiciary Strategic Plan, reduction of the case backlog, development of a performance enhancement mechanism and training of magistrates.
- iii) **Accountable Local Service Delivery** whose objective is to enhance the quality of service delivery through improved local governance and accountability. Key institutions mandated to provide supervision to Local Governments and to improve accountability and local service delivery mechanisms e.g. the Ministry of Local Government, the Uganda Local Government Association and the Inspectorate of Government will be supported. The thrust of this component is to support improvements in the local service delivery system and accountability mechanisms at local levels. Overall, the Joint Budget Support Framework (JBSF) and its Joint Performance Assessment Framework (JAF) provides a good overarching framework for this effort.

This component concentrates on a few key institutions and central level agencies that are mandated to provide supervision to LGs and to improve on accountability and local service delivery mechanisms. These include *i)* Ministry of Local Government, *ii)* Uganda Local Government Association (ULGA) and *iii)* the Inspectorate of Government.

Promoting good governance and accountability: DGF raising awareness on Human Rights

Both state and non-state human rights defenders supported by the DGF reported achievements in raising Ugandans' awareness of human rights, documenting rights violations, and creating coalitions to leverage their influence. The Uganda Human Rights Commission (UHRC) for example carried out community sensitizations that reached over 22,000 people in various districts, and documented multiple violations of human rights in the country. In addition, the Independent Development Fund supported CSOs to refer more than 1,000 cases to the relevant authorities to access legal aid and secure justice. In part anticipation of human rights challenges in the developing oil industry, UHRC opened an office in Hoima District so as to concentrate their awareness raising and human rights promotion efforts in the region.

The DGF has continued to record achievements in not only working to ensure that partners fully integrate women in their projects but also on building the leadership capacities of women and their ability to influence decision making. For example, organizations part of the Women Democracy Group (WDG) trained hundreds of women councillors resulting in the formation of women caucuses in 50 districts. The Women's Democracy Group (WDG) is a coalition of five women organizations including: Action for Development (ACFODE), Center for Women in Governance (CEWIGO), Forum for Women in Democracy (FOWODE), Women's Democracy Network-Uganda Chapter (WDN-U) and Uganda Women's Network (UWONET) as the coordinating agency.

Additionally in light of Uganda's demographics, the Uganda Youth Network (UYONET) recently launched the "Leadership Academy," an initiative that will develop the capacity of youth leaders within political parties and civil society.

The launch of Uganda Project Implementation & Management Centre (UPIMAC)'s Civic Education Resource Centre in November 2013 made available an approved comprehensive and standardized civic education curriculum, a key resource for the country-wide interventions in this area. Similar community based interventions have reached about 500,000 women and men with knowledge and information on their rights and responsibilities as citizens. In other efforts to raise citizens' awareness about the roles of their leaders, the DGF supported The Uganda Governance Monitoring Platform (UGMP) which attracted more than 100,000 people to dialogue meetings between citizens and elected leaders at the sub-county, district and national levels.

DGF has supported other community mechanisms such as the Independent Budget Monitors (IBM). IBMs are community members trained and equipped by The Apac Anti-Corruption Coalition (TAACC) to investigate and follow up on service delivery and local budgets issues at the village and sub county level.

[See: DFF 2013-2014 Annual Report pg. 21]

For schools, the governance of WASH presents a conflict between the Universal primary Education (UPE) policy and its practicability. A recent WaterAid and NETWAS, (November 2014) "Perception survey on Water, Sanitation and Hygiene" covering 31 schools in six sub-counties in Kibuku and Pallisa districts, affirmed that the ambiguity in the institutional mandate for provision of WASH services in schools remains a major impediment to improving the quality of service delivery. The implementation of WASH programmes in schools is still fragmented among many local and central government institutions/departments and none of them can be legally held accountable.

The lack of clarity in institutional mandate for school WASH poses a challenge for long term planning, investment and performance accountability. The findings showed that the pupil stance ratio ranged from 32 pupils per stance to 244 per stance with only two schools meeting the WHO recommended ratio of 40:1, and 22 out of the 31 schools had latrines which were nearly full but with no immediate plans to replace them. Article 9 subsection 3 of Pre-primary, Primary and post Primary Act 2008 states that "No pupil or student shall be sent away from school or an institution or denied access to education for failure to pay any contribution" which presents a practical challenge on the schools management on how to manage school sanitation without necessities.

Despite the above mentioned efforts towards strengthening governance in the sector, there is still a lack of knowledge about governance, its meaning, the principles and how it can be practiced, (SPR, 2015). The limited awareness is highly attributed to good governance as a cross cutting issue with no independent activities and direct visible outcomes. As a response to this bottleneck, the GGWG has developed a good governance awareness campaign 2015-2017 which aims at creating awareness on governance practices in

the sector. The overall goal of the awareness raising campaign is to increase the efficiency and effectiveness of water service provision through awareness of good governance practices. The group has resumed the annual newsletter for the ministry (Water Governance), called applicants for an online governance awareness training organized by WIN in collaboration with SIWI and Cap-Net and has carried out a Training Needs Assessment with the Regulation Department.

At the level of water and sanitation service delivery- provider-consumer level - for the HRWS to be realized, service providers and public officials must be accountable to users. There are two different requirements that needs to be taken into account to ensure accountability:

Right to a remedy: Individuals or groups who feel that their rights have been violated must have access to independent review mechanisms and courts to have their complaints heard and resolved. Remedies provided for should include restitution, compensation, legally binding assurances of non-repetition and corrective action. States must raise awareness and make information on remedies available to all.

Oversight responsibilities: Mechanisms must be enacted that establish oversight and control between both public and private actors in water and sanitation provision. Clear institutional mandates must be defined to build accountability into the entire system of water and sanitation provision. Actions taken or decisions made under those mandates must be accountable and regulated through a system of oversight responsibilities. Monitoring is essential in order to prevent fragmentation of responsibilities and a lack of coordination and control.

States are free to delegate the operation of water and sanitation services to private operators on the condition that independent monitoring and remedies are in place to ensure accountability of private actors towards users and the states. With regard to monitoring, states must set up effective bodies and enforceable processes to ensure that public or private service providers will comply with human rights. Service providers must furthermore assess the actual and potential impact of their activities in the realisation of the human rights to water and sanitation.

Given that Ugandan policies of the WASH sector heavily rely on public participation for their implementation, it is important that duty-bearers in charge of these policies be clearly identified and that they do account systematically and in a transparent manner to the right holders. Moreover, it is crucial that right holders may resort to accountability mechanisms when they deem that authorities fail to account in a pro-active way.

As it the case of the above presented procedural rights, right to access information and right to public participation, the aspect of accountability is directly integrated into other sections on guidelines by systematically assessing to what extent duty bearers are clearly identified in those documents. As mentioned above, that is an essential requirement in terms of oversight responsibilities for service delivery models that delegate management tasks, such as community based management system and management by private operators that are applied in Uganda.

Clearly, the *legal framework makes provision for the right to complain under Section 33 (4b) page 19 of the Water Act*, by land owners where the state`s (Minister`s or Director`s) decision causes damage or where such action will *deprive the owner or occupier of the right to use water conferred by section 8, or any water permit granted under this Part of the Act*. Section 36 (7) highlights the right seek redress at the High Court on disagreements on easement or on civil debts: Section 38 (1) right to *appeal to the Minister in a prescribed manner* if unsatisfied with decisions made by the Director, authorized person or public authority. Section 39 makes provision for what is an offence with regard to deliberate interference on water access rights or hydrological points or infrastructure.

There seems to be a good level of reflection by MWE of the need to promote good governance in the water and environment sector. In 2014 JSR, MWE envisaged developing a governance indicator as undertaking 14 of Ministry of Water and Environment. This was a recommendation of the study on Assessing Governance and integrity in the water and sanitation subsector. Water Integrity Network (WIN) initiated the development of the TOR for assessing Governance and Monitoring integrity in the Water Sector. The terms of reference drafted to undertake this exercise included a focus on reviewing good governance principles in the golden performance indicators that the sector uses to measure and monitor performance. The study

aims at examining the extent at which the results reported in the sector performance report appraise good governance procedures, processes and practices in the water and sanitation sub-sector and propose a restructure of the 11 golden indicators to reflect sector performance in reference to good governance.

In terms of financing accountability for water and environment sector in Uganda, the Ministry of Water and Environment has recently requested the Office of the Auditor General to undertake a Value for Money (VFM) on the District water and sanitation conditional Grant to assess the economy, effectiveness, efficiency with which the funds under the grant have been utilized. The report is expected to be available in December 2015.

To promote effective procurement planning and contract management, MWE's Procurement and Disposal Unit team and the Principal Training Officer implemented a training for 120 officers in procurement planning and contracts management in 2014/2015 FY. The overall objective of the training was to equip technical support units (TSU), Umbrella Organizations, Water Management Zones (WMZs) and District water officers with relevant knowledge and skills in procurement and contracts management to enable them execute their mandates in accordance with the Public Procurement and Disposal of Public Assets Act, Regulations and Guidelines.

Challenges on Accountability

With respect to remedies and redress, (since complaint mechanisms for judicial and para-judicial are of a trans-sectoral nature due to the mandate of these institutions), current mechanisms do not provide for guidelines on accountability specifically for the WASH sector. A part from the judicial and para-judicial institutions, the WASH sector requires precise complaint processes to respond to issues emanating from the duties and obligations between service providers and customers. With respect to small towns and RGCs, the Water Supply and Sewerage Board (WSSB) has the duty to receive and address customer complaints referred by the Water Supply and Sewerage Authority or the private operator.³¹⁷ It should then keep records of these complaints and related actions taken for a 5 year period.³¹⁸ It is reported in the MWE SPR 2015 that IRC Uganda is in the process of updating the guidelines for rolling out SWSSBs which will include among other aspects, the recruitment of board members, financing and accountability.

The NWP, [section 33 (4b) page 19] makes provision for the right to complain by land owners where the state's (Minister's or Director's) decision causes damage or where such action will *deprive the owner or occupier of the right to use water conferred by section 8, or any water permit granted under this Part of the Act*. This is also reinforced under section 36 (7) on the right to seek redress at the High Court on disagreements on easement or on civil debts and under section 38 (1) which highlights the right to *appeal to the Minister in a prescribed manner* if unsatisfied with decisions made by the Director, authorized person or public authority. Furthermore section 39 makes provision for what is an offence with regard to deliberate interference on water access rights or hydrological points or infrastructure.

Since the relation of provider to customer does not apply in the frame of the CBMS model, the complaints are meant to be managed in the relation between the WSC and the rest of the communities, but no official guidelines are set out in this regard.

Clearly more elaborate redress and complaint mechanisms should be defined for the WASH sector that guided by the existing different levels of service provision for the different groups. A study by WaterAid Uganda, for instance, recommends the establishment of redress mechanisms in relation to the role of parliament members in WASH governance.³¹⁹

In order to properly address issues that the right holders are facing, it is important to clarify the chain of responsibilities in complaint handling within the WASH sector and under what conditions complaints might be admissible at different level of the ladder of the chain of responsibilities. This finding is corroborated by a study by Advocates Coalition for Development and Environment (ACODE) that reports on the dilution of

³¹⁷ MWE, Performance Contract for Water Supply and Sewerage Authorities: Sixth Schedule, p. 26.

³¹⁸ Ibid. Seventh Schedule, p. 30.

³¹⁹ WaterAid Uganda (2011), A Study on Working with Parliament Towards Improving WASH Governance in Uganda: p. 32

responsibilities by authorities in case of grievances toward social services caused by a lack of delineation of responsibilities and the absence of an adequate complaint and redress mechanisms.³²⁰

3.7. Sustainability

The Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, advances a definition of sustainability that acknowledges that the right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.³²¹ Environmental sustainability is best achieved with the participation of all concerned citizens, at the relevant level. Additionally, at the national level each individual shall have appropriate access to information concerning the environment that is held by public authorities, including effective access to judicial and administrative proceedings, as well as redress, remedy and the opportunity to participate in decision-making processes.

The HRWS framework expects governments to adopt comprehensive and integrated strategies and programmes to ensure that there is sufficient and safe water for present and future generations.³²² Such strategies are described to include:

- (a) reducing depletion of water resources through unsustainable extraction, diversion and damming;
- (b) reducing and eliminating contamination of watersheds and water-related ecosystems by substances such as radiation, harmful chemicals and human excreta;
- (c) monitoring water reserves;
- (d) ensuring that proposed developments do not interfere with access to adequate water;
- (e) assessing the impacts of actions that may impinge upon water availability and natural-ecosystems watersheds, such as climate changes, desertification and increased soil salinity, deforestation and loss of biodiversity;
- (f) increasing the efficient use of water by end-users;
- (g) reducing water wastage in its distribution;
- (h) response mechanisms for emergency situations; and
- (i) establishing competent institutions and appropriate institutional arrangements to carry out the strategies and programmes.

In Uganda Objective XXVII (*the State shall **promote sustainable development and public awareness of the need to manage land, air and water resources in a balanced and sustainable manner for the Present and Future generations***) of the Constitution highlights the Government's responsibility of holding in trust and managing the water resources of Uganda as a common good for all the people of Uganda and for the **present and future generations**. This is in line with the realization of the right to water principles which prescribe that the manner of HRWS realization must be sustainable, ensuring that the right can be realized for present and future generations.

Under the mandate of the Directorate of Water Resource Management (DWRM) the objective is defined as *"to manage and develop the water resources of Uganda in an integrated and sustainable manner in order to provide water of **adequate quantity and quality** for socio-economic needs for both the present and future generations."* This objective is further reiterated in other related policies, for instance, in the National Environment Management Policy and subsequent Statute in which a key policy objective for water resources conservation and management for ensuring water quality is *"...to sustainably manage and develop the water resources in a coordinated and integrated manner so as to provide water of **acceptable quality for all social and economic needs**...."*

Specific to the regional level commitments, the NWP highlights the states regional obligations on application of accepted principles of international law on the use of shared water resources and interest as

³²⁰ ACODE (2013), Governance Aspects in the Water and Roads Sectors, Lessons Learned from Five Districts in Uganda, Lessons from Five Districts in Uganda, Policy Research Paper Series No.59: pp 34-35.

³²¹ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992. Available at <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>.

³²² General Comment No. 15, p. 10.

a riparian state (upper and lower of the Nile basin): Securing her equitable share of the water resources of this basin and to ensure that the good water quality in the water bodies within the national boundaries is maintained for sustainable use. The NWP 1999 policy is therefore to balance equity within and between generations (for example in assessing optimum use it must be recognized that short term economic benefits may be outweighed by long term social and environment costs (Chapter 1 of national water policy). Under Chapter 4 of the National Water Policy section 4.3.3 further lays emphasis on sustainable use to be a key element in planning.

More than 90% of Uganda's waters are trans-boundary or river courses. This therefore means that the use and development of Uganda's water resources is controlled by international laws and principles and colonial agreements. Because much of Uganda's water ends up with the Nile, therefore, Uganda's approach to the water resources development and management is a critical element within the Nile Basin and hence requires clear trans-boundary policy and institutional frameworks and also legal and harmonized laws with riparian states.³²³

As noted in the NWP, national policies seem to be encouraging regional co-operation for optimal resource use within the accepted principles of international law on the use of shared water resources, hence the government clearly takes cognizance of her international and regional obligations, [see Chapter 3 of the NWP, pg. 4]. Furthermore, reference to Uganda's participation in regional and basin-wide bodies of cooperation is also confirmed to be occurring within the following processes:

- the Technical Cooperation Committee for the Promotion of the Development and Environmental Protection of the Nile Basin (TECCONILE),
- Inter-Governmental Agency for Drought (IGAD),
- Kagera Basin Organization (KBO),
- Lake Victoria Fisheries Organization (LVFO) provides the basic policy framework.

In terms of institutional arrangements that support the sustainable use of the transboundary waters the government has established the International and Transboundary Water Affairs Department within the Directorate of Water Resources Management, (SPR, 2014, 2015). This department has initiated and coordinates a number of international and transboundary interventions, projects and programmes through 3 trans-boundary agreements, laws, policies, standards; institutional reviews for improved management of cross-border river basins; and fundraising with secured funds for 3 projects and the continuing implementation of 4 projects has taken place within the FY 2014/2015.

Within the country, both point and non-point source pollution however pose major problems in the Lake Victoria yet as confirmed in the NWP `there are no formal agreements for protection of the water quality by upstream countries and its equitable utilization, which may limit Uganda's unhindered access and use of water resources within her territorial boundaries` (NWP pg. 3).

According to the ministerial policy statement, and as recognized in the current strategic framework for water resources management and development, the cooperative development of the trans- boundary water resources e.g. the Nile, the Kagera, Sio-Malaba River, Lake Victoria, Lake Albert, Lake Edward and others can serve as a catalyst for a broader range of cooperation and economic integration. This means that there is political recognition of the ecological significance of the lake heightened by the role it plays in shaping regional weather patterns, especially with regard to rainfall. This notwithstanding, there are still indications that competing interests and a lack of transparency are hampering cooperative efforts. The need for economic growth also creates incentives for member governments to behave in ways that sometimes contradict natural resource management agreements and strategies.³²⁴

³²³ Nsubbuga F.N.W et al 2014, Ibid.

³²⁴ Kelley Lubovich, Cooperation and Competition: Management Transboundary Water Resources in the Lake Victoria Region, Working Paper No. 5, 2008. Available at: http://www.fess-global.org/WorkingPapers/Lake_Victoria_Working_Paper.pdf.

Key challenges affecting sustainability

Human and animal wastes also are contaminating lake ecosystems, and contain dangerous bacteria that can negatively affect water quality and pose health risks to communities. The lack of treatment poses a major risk to public health because 70 percent of the basin population utilizes raw water in some form or another. Illness associated with contaminated water and poor sanitation practices include typhoid fever, cholera, dysentery, and malaria. The microbial contamination of the lake has increased the risk of waterborne diseases outbreaks (Global International Waters Assessment, (GIWA, 20016). This assessment further confirms that although life expectancy statistics are not available at the basin level, it is likely that in addition to dramatically reducing the standard of living of those who depend on the lake's waters, water pollution also may be reducing their life expectancies. This is an issue that goes beyond Uganda's water governance since it extends transboundary water management. A coordinated set of activities between the riparian countries is needed and already includes interventions such as the Lake Victoria Environment Management Project Phase II – LVEMPII (under the lake Victoria Basin Commission) and the Nile Basin Initiative - NBI.³²⁵ In theory, LVEMP should provide a framework for coordination among the governments as well as a forum in which to discuss and implement programs necessary for combating the region's problems.

In order to reverse/restore the degradation of wetlands, the government in 2014 took a decision to cancel all land titles issued in wetlands. The implementation of this decision has been effected by the MWE and the NEMA who started demarcating all wetland boundaries before eviction and eventual restoration through e.g. tree planting initiatives as presented in the latest State of the Environment Report. It is further noted that some catchment management plans have been finalized which are based on the catchment planning guidelines and catchment base management approach is being implemented through integration of wetland management, rain water harvesting, sanitation and hygiene etc.

While Uganda is generally endowed with water resources, economic activity still continues to depend on rainfall, studies show that rainfall is on the decline and this is likely to pose social-economic challenges in the medium to long term. There is however no developed water resource accounts. There is a need for a detailed break-down of sectoral water supply and use, the minimum water requirements for the ecosystem as well as returns of waste water to the environment. Water resources management is reported (NWP) as relying ineffectively on single-sector and top-down strategies, without proper holistic concerns and sense of partnership and shared responsibilities. An example is the prevalent poor or non-existent integrated land and water management practices. This is despite the fact that the national policy Chapter 4 under 4.3.3 on **planning and prioritization** emphasizes that (iv) *water quality and land use links recognized*; (v) *environmental impact assessments as planning tool*; and (x) *holistic approach to water resources management, development and use*.

3.8. Accessibility, Availability, Affordability, Quality and Acceptability

The implementation and monitoring of the human right to water and sanitation is guided by the **principles** that have been described above as well as through the **service criteria** of **availability, quality, acceptability, accessibility and affordability** which will be discussed below. All these elements give meaning to the human right to water and sanitation, and must be taken into account for its implementation.

Currently, Uganda's decentralized service delivery framework provides for a mixture of approaches to service delivery including direct provision by local governments; private sector delivery; and civil society service delivery. These are governed by different instruments such as the *Guidelines for Service Delivery standards* (Ministry of Public Service); *Local Governments Annual Performance Review Guidelines* (Ministry of Local Government); and *Principles of Service Delivery in Uganda's Local Government, 2013*, (Ministry of Local Government). The latter identifies key decentralization challenges facing Uganda including: a high rate of district creation, lack of implementation capacity, understaffing, revenue shortfalls, waste and corruption, poor funding, and low local revenue generation. On its part, the NDP calls for streamlining of the planning processes and harmonization of service delivery sectors. Furthermore, this document distinguishes between service delivery and service provision, noting that Service provision refers to the

³²⁵ More specifically, the LVEMPII signed a MoU with the Kampala City Authority to implement solid waste management and storm drainage in Kampala city, while the NBI is promoting investments in Uganda.

whole process of planning public services while service delivery refers to mechanisms of policy implementation.

This section will discuss both service provision and service delivery. In Uganda's local government system, service delivery approaches include: direct provision by the local government, public-private partnerships (PPPs), participation of civil society and privatization (letting individuals or companies to provide the services). Much of the service provision is done by the stakeholders, either independently or in partnership with local state institutions. As discussed in Chapter Two, the water and environment sector delineates responsibilities for water supply and sanitation service delivery along the urban-rural divide: rural water supply and sanitation, urban water supply and sanitation departments within MWE DWD.

Rural water supply and sanitation provision covers communities or villages (at the level of Local Council 1 (LC1)) with scattered population in settlements up to 1,500 people, and Rural Growth Centres (RGCs) with populations between 1,500 and 5,000. The main technology options used for water supply improvements in rural areas include protected springs (23%), shallow wells (25%), deep boreholes (41%), piped water schemes (gravity-fed) and piped water schemes (pumped) (11%), valley tanks and rainwater tanks. Boreholes are the most widespread technology. On the other hand, urban water supply and sanitation. This is managed through the Department of Rural Water Supply and Sanitation with support from the Technical support Units (TSUs) at district local government's level in the areas of planning, budgeting, accountability, support to procurement and contract management.

On the other hand, urban water supply and sanitation is the direct responsibility of the National Water and Sewerage Corporation (NWSC), which operates under the NWSC Statutes 1995. The NWSC geographical coverage has increased from 66 towns as at 30th June 2014 to 110 towns as at 30th June 2015. NWSC implements a uniform tariff structure across all its towns to ensure equity in pricing, (MWE, SPR, 2015). In a bid to enable the urban poor access clean water services, NWSC installed 924 pro-poor connections. These are subsidized connections aimed at enabling the urban poor population to access clean water services at an affordable cost.

For decentralized levels, the Water Management Zones (WMZs) have the responsibility to ration water use through issuance of user permits and licensing, water quality testing and monitoring to ensure that water is safe for human consumption. Through WMZs, the water users and stakeholders are supported to prepare catchment management plans which guide the prioritization for projects which are used by local governments, water management zones etc. to solicit funds through the government system.

This sub-section will present the criteria by first providing a brief description of the criteria before proceeding to the discussion of this criteria against the national standards and implementation and monitoring processes for each. Gaps will consistently be identified to guide recommendations for each of these criteria.

3.8.1. Accessibility

In accordance with the human right to water and sanitation, water facilities and services have to be **accessible to everyone without discrimination; within physical reach of all sections of the population** i.e. within the immediate vicinity, of each household, educational institution and workplace. The Human rights framework therefore defines accessibility along three levels: physical accessibility, economic accessibility and Non-Discrimination.

For water supply, there should be sufficient number of water outlets to avoid prohibitive waiting times and facilities and services must be of sufficient quality, culturally appropriate and if the state is not in the capacity to provide water and sanitation services into the premises, the access to water and sanitation infrastructure should be set a reasonable distance from the home of the right holders.

The WHO guidelines advocate to set the references of the distance of up to 1 km from home and time spend in queuing of up to 30 minutes to cater for personal and domestic use of water. However it is up to the state to decide on its national standards within this international legal framework as geographical context and state resource may vary to a certain extent.

Uganda Official Standard for Accessibility

With respect to the State of Uganda, the government has reviewed the standard of physical accessibility in 2009, shifting the standard respectively from 1.5 km to 1 km for rural areas and from 0.4 km to 0.2 km for urban areas³²⁶, thus resulting in an improvement toward the progressive realisation of the right. In the process of this desk review, the official document detailing this decision was not identified.³²⁷ In the absence of specification, it is assumed that the standard for rural areas is applied to Rural Growth Centres.

Implementation of the principle of Accessibility

With respect to piped water schemes, the Design Guidelines for Water Supply Infrastructure display the following maximum values for the technical design of public standposts and number of taps³²⁸:

- Rural areas: 500 m as a maximum walking distance to the standpost for up to 300 users per tap.
- Urban areas: 200 m as a maximum walking distance to the standpost for up to 250 users per tap.

The Water Supply Design Manual provided guidance on service level for water demand mentions the following figures³²⁹:

- Rural areas: 500 m for maximum walking distance from dwelling to public standpipe with usage limited to 300 persons, further specifying that the distance might extend until 1 km in sparsely populated areas.
- Urban centres: 250 m for maximum walking distance from dwelling to public standpipe with usage limited to 250 persons, further specifying that the distance should be reduced in highly populated areas.

The manual refers to the WHO for further advises and stresses the requirement to consult and seek agreement with the beneficiaries, in case the designer may not be able to comply with these recommended figures. Yet, surprisingly enough, the same document provides different values regarding water transmission and distribution stating that “public water points (stand posts) should be sited in such a way that the maximum walking distance for 90% of the users does not exceed 1.5 km” and that “number of users per water point (stand post) should normally be restricted to 200 persons”. In urban centres, the maximum walking distance to public water points (stand posts) should not exceed 250 m and the number of users per water point should be restricted to 150 persons.”³³⁰

Although the consultation process with local communities and authorities offers a certain leeway in the decision regarding the siting of stand-posts and that a certain flexibility must be maintained for the financial viability of water schemes projects, **there is a need to harmonize the references of standard in the guidelines in such a way that it does not exceed the official standard.**

With respect to non-piped water schemes, no values are logically provided in terms of distance to dwellings for designing since the infrastructure is built on the water source. The compliance to the official standard hence relies on the effectiveness of the software process to determine who is effectively deserved by the water points in a reasonable distance. As for the maximum number of users per water point, the references are 300 persons for a hand pump system and 250 persons for springs constructed system³³¹.

In the Self Supply Strategy, the MWE considers the promotion of appropriate technologies as an interim measure³³², **but it is not clear to what extent people are officially recognized as having access to water through these technologies.** A gap analysis in policies pertaining to self-supply initiatives in Uganda pointed

³²⁶ MWE (2009), Water and Environment Sector Performance Report 2009: p. 73.

³²⁷ It should be noted in that respect that some recent documents still display the former value standard of 1.5 km for rural areas: MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 32; MWE (2013), District Implementation Manual Revised: p. 95; MWE (2014), Water and Environment.

³²⁸ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 99.

³²⁹ MWE (2013), Water Supply Design Manual Second Edition: Chap.2 p.5.

³³⁰ MWE (2013), Water Supply Design Manual Second Edition: Chap.7 pp.22 and 6.

³³¹ MWE (2013), District Implementation Manual – Revised: p. 41.

³³² MWE (2014), Water and Environment Sector Performance Report 2014, p. 53.

out the lack of definition of standards and quality to inform performance monitoring and reporting³³³. While advocating for this approach, the District Implementation Manual acknowledges that self-supply initiatives may not meet the minimum service level in terms of distance to the water point and water quality in Uganda.³³⁴ Among these technologies, rain water harvesting at household level is steadily promoted.

According to the proposed guideline for implementing Rainwater Harvesting activities in Uganda though, roof water is "the cleanest source locally available and water for drinking / cooking as the core of household water consumption. From 4 to 7 litres per person per day are needed to meet this part of household water demand, a quantity that even a small roof and a fairly small storage tank can provide. Many rural households have access to convenient, but frequently polluted, water during the wet months, with which they can meet their non-potable needs."³³⁵ At the level of monitoring, the surveys carried out by UBOS clearly set rain water as an improved water source. Finally, while instructing Local Governments to carry on the promotion of rain water harvesting at household level, the MWE informed that the DWSCG may not be used anymore for that purpose³³⁶.

Uganda's second National Development Plan aims to increase access to safe water from 64% to 79% in rural areas and from 73% to 100% in urban areas by 2020. The national government aim is to reach universal water supply and sanitation coverage in urban areas and 77% water supply and 95% sanitation coverage by 2015. Uganda has recently signed up to the Ngor Declaration promising universal access to adequate sanitation and hygiene services and the elimination of open defecation by 2030.

The NWP has as its key objective, [which includes the national target] defined as: "*Sustainable safe water supply and sanitation facilities to 77 percent of the rural population and 100 percent of the urban population by the year 2015, based on management responsibility and ownership by the users, with an 80 percent–90 percent use and functionality of facilities.*" The review of the NWP,³³⁷ confirms that it responds to all the 1995 Water Statute objectives:

- ❖ Promotes the principles of Integrated Water Resources Management (IWRM), a comprehensive approach to water supply;
- ❖ Recognizes the economic value of water;
- ❖ Promotes the participation of all stakeholders, including women and the poor, in all stages of water supply and sanitation; and
- ❖ Confirms the right of all Ugandans to safe water.

It is noted that the government's commitment to WASH fell in 2014/15, to 2.8% of the national budget which places emphasis on the fact that inadequate financing is a key influencing factor on access, and is compounded by poor performance against sector targets, indicated by low sanitation coverage, stagnant rural water coverage and poor functionality of rural water supplies.

At the community level, MWE considers as access if communities obtain water from *improved* sources (i.e. protected spring service 200; shallow well serving 300; deep borehole with hand-pump serving 300; gravity-flow scheme / piped water supply serving 150; and rainwater harvesting tank serving 3–6) based on WHO & UNICEF international guidelines. Other sources are considered unimproved and hence not included in estimations for access. Internationally, access is also defined using values of distance, including time spent to collect the water from source (users live within 1 km of water source) and minimum available quantity (20 litres per person per day).

In Uganda, DWD measures access using the percentage access (water supply coverage) calculated for a given region by estimating the total number of people using the improved sources based on a rule-of-thumb

³³³ MWE (2012), Self Supply experiences in Uganda, A Compilation of the Case Studies on Self Supply presented at the 3rd. National Learning Forum-City Royal Hotel, December 5 - 6, 2011: p. 11.

³³⁴ MWE (2013), District Implementation Manual Revised: p. 95.

³³⁵ MWE (2012), Proposed guideline for implementing Rainwater Harvesting activities in Uganda: p. 2.

³³⁶ The Republic of Uganda (29th September 2014), Conditional Grant Utilization Agreement for Financial Year 2015/16 between Ministry of Water and Environment and Local Governments: p. 10.

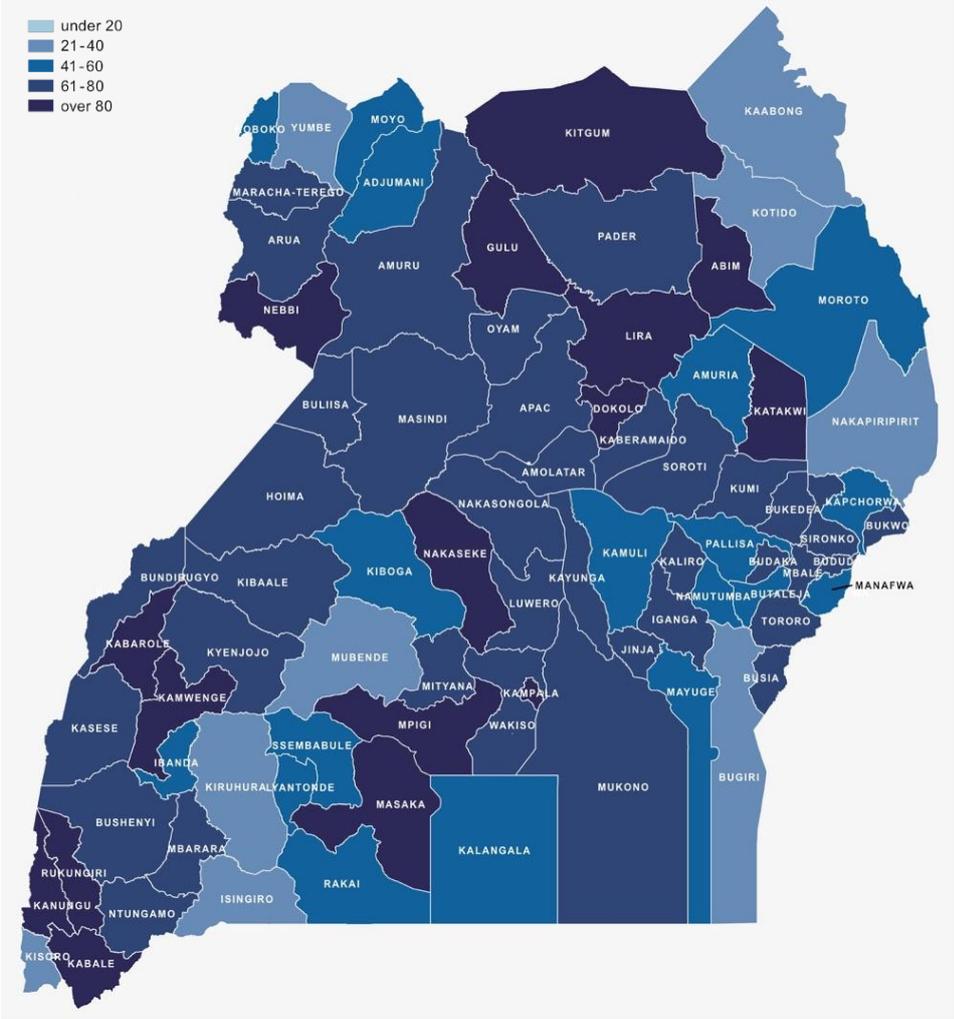
³³⁷ Republic of Uganda, Directorate of Water Development (1999). "National Water Policy" p 1.

values of people per source highlighted above); and dividing the previous number by estimated population of the region.

For the golden indicators on access to water, MWE’s Regulation Unit reports on Targets and achievements for the Performance Indicators under the performance contracts signed by MWE with NWSC and with the Water Authorities. Sanitation information and data is largely consolidated and provided by the sanitation sub-sector working group based on the data from respective district local governments and the Environmental Health Division of the Ministry of Health.

The map below provides a snapshot of water supply access in Uganda. Access to functioning water sources varies considerably among districts, from 12% to 95%.

Figure 4: Water supply access in Uganda



Source: www.mwe.go.ug/index.php?option=com_docman&task=cat_view&gid=12&Itemid=223

The 2015 water coverage data from the Joint Monitoring Programme (JMP) of UNICEF and WHO is suggests that 79% of the population has access to clean, safe drinking water (76% in rural areas and 96% in urban areas).³³⁸ This would place Uganda ahead of its East African Community partners and Ethiopia in clean water coverage. The GoU’s lower figures reflect a stricter definition of access to safe water than the JMP definition of an improved water source. The 2015 draft sector performance review (SPR, 2015) gives the current water coverage figures as 65% for rural (which is up from 64% recorded in June 2014 against a

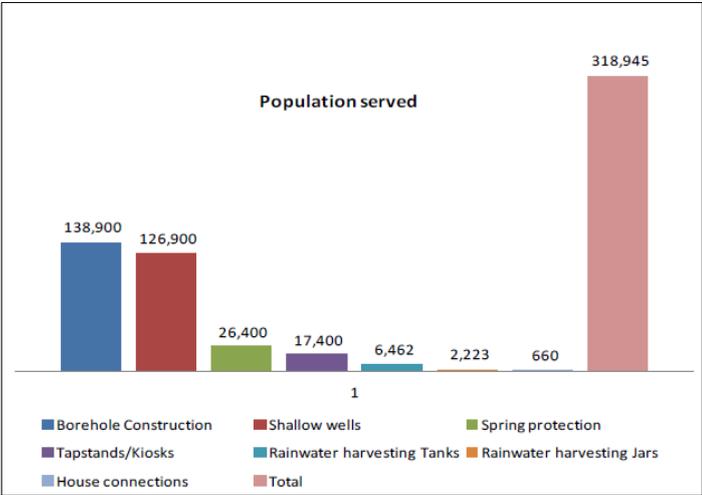
³³⁸ WHO/UNICEF (2015) *Progress on Sanitation and Drinking Water: 2015 Update*.

target of 77%), while urban water access coverage is reported to be at 76% (up from 73% the previous year against a coverage target of 100%).

The definition of access to sanitation is currently very misleading, particularly for rural districts: whereas the monitoring indicator places this at 77% improved access for rural, it is noted that most of the toilets in fact do not meet the global WHO/UNICEF WHO standards, (which if applied would reduce this coverage down to 35% access levels, (SPR, 2015). A key problem to this situation is the fact that majority of the Bottom 40% reside in rural areas and cannot afford improved sanitation products and services.

The Golden Indicator 4 which promotes access to sanitation, sanitation facilities for schools (which is still at 67: 1 rural and 53:1 urban in Kampala - and the indicator doesn't provide the disaggregation for boys and girls). For hygiene, currently in schools only 38% seem to have hand-washing facilities and even then functionality and use are not captured in this indicator. The service standard for 'safety' is therefore not adequately addressed and vulnerable groups which include schools children are not yet having access especially in rural areas.

Figure 5: Population served per water technology



Average number of people served per water supply technology: Borehole 300, shallow well 300, protected spring 200, Water kiosk 150, house connection 6, rainwater jar 3, rainwater tank 6.

Source: MWE, JSR 2015

This is alarming given that the SDG framework also speaks of universal access by 2030 and Goal 6 target 6.2 in fact singles out women and girls as groups that should be treated with special attention as well as the vulnerable groups when defining access to safe or improved sanitation.

It should be noted that the Golden Indicator 1 on access merely reports on % of people within 1km of an improved water source and does not allow for collection of data on availability of the water. In Urban areas this indicator poses major challenges:

In Hoima town water supply has been operational for over 10 years. Water is abstracted from eight wells, situated in two well fields. Hoima District Water Office consulted MWE about groundwater resources availability after registering reduced yields in boreholes and protected springs in the catchments for the town water supply.

MWE made an assessment and recommended that groundwater monitoring of abstraction should be carried out in the well fields, that NWSC has to collaborate with MWE/DWRM to regulate the water abstracted for sustainability purposes, and that the catchment of the wells should be restored and protected to prevent contamination of the groundwater, [Source SPR, 2015].

According to the Poverty Eradication Action Plan (PEAP), water use in rural areas ranges between 12 and 14 litres per capita and day (l/p/d). In urban towns and centres with a population of more than 5,000 people, the PEAP estimates an average of less than 17 l/p/d. The national target is to reach an average consumption of 20 l/p/d; Parts of urban areas in Kampala such as Kyaliwajala, Kulambiro and most places on hilltops

suffer from chronic water shortages; Some areas go without water for a week when repairs are undertaken; and in rural areas reduced yields in water sources are reported which affect availability and access. In this respect more information is needed in elaborating the definition of access (which should encompass physical, economic and evidence of non-discrimination).

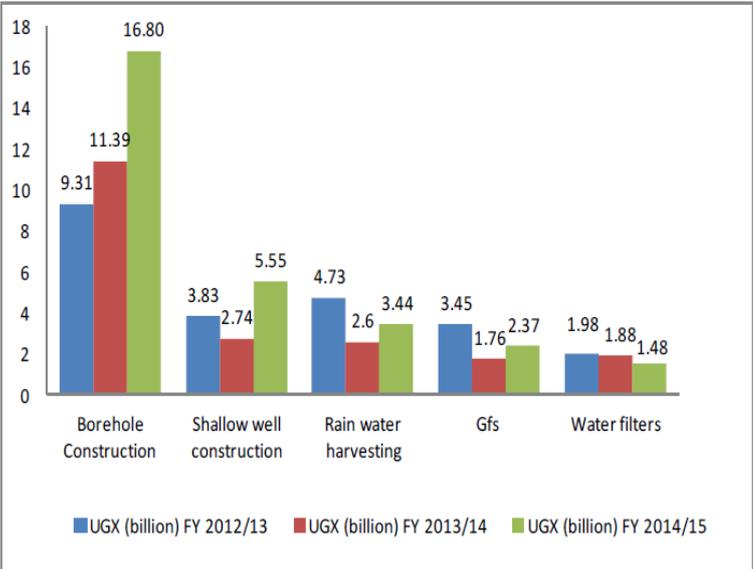
Clearly, the current access indicator No.1 does not offer adequate definition of access as it precludes elements of water availability when physical accessibility is guaranteed, particularly for rural areas. In reporting on Golden Indicator No. 1, SPR 2015 clearly demonstrates these limitations: the reporting on population served i.e. with water supply access mainly focuses on new water points, with boreholes as source of water registering the highest numbers for the reporting period. In terms of investment borehole construction expenditure in 2014/2015 was 16.8 UGX billion (which constituted 51% of total water supply investment) compared to 1.36 UGX billion spent on piped water supply extension.

The reporting on Indicator No.1 does not seem to report on distance although the criteria (within 1 km) is respected when constructing the boreholes.

The MWE provisions for access to water for schools, for instance, limits access to adequate water for children in the rural districts. Whereas MWE views schools as part of community, the practicality of using community-based water sources by the school children, does not adequately fulfil the obligations related to availability and accessibility due to possible waiting time, issues of security and the fact that this arrangement still places the burden of water collection on the children during school time.

Currently Urban indicator values for access for people served by NWSC do not indicate the rural sub-counties where they supply water. These rural sub-counties probably have a higher access figure than indicated in the tables provided in SPR 2015 for access because not all connections may have been captured. NWSC includes these connection in people served in their service areas. These service area coverages are often having too high people served figures because coverage is based on the urban population, but people served include those with connections in rural sub-counties.

Figure 6: Uganda Water and Environment Sector Performance Report 2015



The figure reflects that whereas there has been a steady increase of investment in the borehole construction, there is no clear pattern of investments in other technologies

Source: MWE, SPR, 2015

Given that Uganda has progressively increased the number of districts, the new administrative units must have a bearing on the indicators especially where the units change from rural to urban as some counties have now changed from being rural to being urban town councils). Additionally, there are new population figures as per census 2014. Given these dynamics, a review of the indicator parameters is necessary if the access figures are to reflect the reality on the ground, as this must have an impact on the calculations.

Equity at sub-county and parish levels still remains a challenge, with rural water supply coverage ranging from 30 to 95%; this is often related to the higher costs/technical difficulties in serving more remote/scattered communities living in more marginal lands but needs to be addressed.

Despite the fact that the MWE pro-poor strategy (2006) embraces specific strategies for rural water supply, the MWE's own golden indicators and trends as well as on-site observations and discussions clearly show that this still has short-comings on impact in practice. The sector's focus on service delivery through house/yard connections has proven to be unsustainable. The common practice of water vending of households with connections to those without connections is to be considered as an emergency solution only and should not become sector policy.

While on the contrary it is accepted that there can be a problem with maintenance and effective operation of public kiosks especially in urban areas, it is also well accepted that privately operated yard taps do, in many cases, disadvantage the poorest/most vulnerable sections of the community. The sector continues to explore cost-effective mechanisms to improve access for the urban poor and a more satisfactory clear pro-poor oriented mode of service delivery needs to be implemented.

In accordance with the rights to health and adequate housing (see general comments Nos. 4 (1991) and 14 (2000) government have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children. Uganda's budgetary allocation to the water and sanitation sector is still low, with only 0.37% of Uganda's GDP allocated to water and sanitation development (instead of at least 0.5% of GDP). Some of the review highlighted the need to engage other government programmes such as primary healthcare to integrate sanitation in their activities.

Given the rapid population growth in Uganda and the increase in number of districts, there is a need to accelerate direct provision for sanitation facilities in schools, health facilities and other public buildings, including public housing, but this requires public investment in sewerage networks and other sanitation infrastructure in towns and cities.

3.8.2. Availability

The human right to water and sanitation means that water must be available in **sufficient quantities and on a continuous basis** for personal and domestic uses – which include cooking, drinking, personal and household hygiene -, with these uses being prioritized over water uses like agriculture and industry. Likewise a sufficient number of sanitation facilities must be available.

In practice, there must be a sufficient number of water outlets to ensure that collection and waiting times are not unreasonably long. Moreover, there must be a sufficient number of sanitation facilities with associated services to ensure that the needs of people are met. Sanitation is only considered available when the collection, transport, treatment and disposal or reuse of human excreta and associated hygiene is ensured. Furthermore, States bear a special responsibility to provide access to water and sanitation to people in public institutions and public places.

General Comment N°15 of the CESCR does not specify quantity but refers to guidelines produced by the WHO. The WHO suggests a minimum of 20 litres per day per person, although the amount will be higher for some groups due to health, work or climatic conditions. A further target can be set at a quantity of approximately 50-100 litres a day per person, which is the amount at which most health needs are met. However, breastfeeding mothers, pregnant women or persons living with HIV/AIDS would need more than 50-100 litres of water per day.

Uganda Official Standard for Availability

With respect to water availability the official standard setting the minimum requirement for the quantity of water is articulated in Chapter 5 of the NWP [Section 5.4.1. pg. 14] where guidance on water quantity; type of water sources considered safe; distance to water source for rural and urban/peri-urban areas; and

the amount water per capita per day; and the expected number of people to be served by one water source, *i.e.*

- 20 to 25 litres per capita per day from a public water point (protected spring, hand-pump, equipped shallow well or boreholes, or tap stand on gravity-fed scheme)
- preferably within 1,500 metres of all households in rural areas; and 200 metres maximum walking distance in built-up areas and peri-urban zones where public water point are introduced with 20-25 litres per capita per day as well.
- each public water point should not serve more than 300 persons and that the elevation between a household and the water point should not exceed 100 metres (NWP pg. 14).

In Uganda the issue of the amount of water availability is addressed indirectly under the type of water supply the population has access to, through the infrastructures that have been recognised as improved water source. Moreover, the continuity of supply have related targets defined respectively for rural areas, as the number of improved water sources that are functional at time of spot-check, and for small towns, as the ratio of the actual hours of water supply to the required hours, [see Golden Indicator No. 1]. Besides, the Uganda Vision 2040 document estimates the average water consumption of 2010 at 26 m³ per capita and sets the objective of 200 m³ per capita for 2040³³⁹. In line with the requirement of this level of consumption, it places the goal of 100% of the population having access to a piped scheme by 2040 against the 2010 baseline situation of 15%.

The NWP emphasizes that the level of service chosen with respect to walking distance, number of users per outlet, access to alternative water sources, social barriers as well as affordability should be arrived at through a demand-driven negotiation approach. Other guidelines on water use also articulated include: watering not more than thirty livestock units (approximately 43 cattle or 50 horses or 75 donkeys or 200 goats or 200 sheep or a mixture of these animals); subsistence agriculture, and watering a subsistence fish pond.

While the above service criteria are clearly spelt out in the NWP, further review of the monitoring process indicates inadequate parameters in the Golden indicators that report on all these aspects. For instance, the Golden Indicator No. 1 does not provide any information on availability except for the presence of the water source and hence the sector performance report does not comprehensively report on the service criteria described in the NWP. Further disaggregation seems necessary.

For sanitation, the standard regarding sufficient number of sanitation facilities is addressed by the type of infrastructure acknowledged as 'improved' facilities. The data reporting on sanitation shows a level of disaggregation for schools but no data for such parameters is provided for communities. There is no target on the continuity of the service or on the functioning of the sanitation infrastructure. Access to hand-washing facilities and its effective use are set as a target for household level for hygiene standard.

With respect to educational institutions, the standard of water availability remains at the level of general access without specifying quantities. The availability of safe water and sanitation to schools is therefore an issue that is not clearly defined under MWE, MoH or MOES and is mainly as a result of the mixed mandates and lack of clarity on who is accountable. In addition, the standard for the sufficient number of sanitation facilities is 40:1 but is not disaggregated for girls and boys although there is clear guidance that there should be separate facilities for boys and for girls and for pupils with disabilities. No standards are defined for hand-washing facilities and no target for how many children per hand-washing facility, which does not ensure an effective access for pupils even though availability may be confirmed since waiting time may affect the actual use.³⁴⁰

The review found no standard of availability of water or sanitation and related services for health institutions and reporting in the annual sector review report does not provide any data on this. Likewise, no standard has been found with respect to places of deprivation of liberty.

³³⁹ Republic of Uganda, Uganda 2040 Vision: p. 14.

³⁴⁰ MWE (2009), Water and Environment Sector Performance Report 2009: p. 5.

Safe water availability cannot be effectively addressed without discussing the issue of continuous supply which captures both financial, institutional sustainability, related to management model, and the environmental sustainability, related to the conservation and protection of the ecosystems that secure freshwater. While financial and institutional sustainability is addressed in this section, the environmental sustainability is addressed in the next section on water quality.

There is strict indication on the minimum requirement in the operation manuals of the sector on quantities. The figures on water demand projection displayed in these documents are therefore compared hereunder against the expected international standard:

The Design Guidelines for Water Supply Infrastructure estimate water demand respectively for house connection at 50 to 200 litres/capita/day, for yard tap at 20 to 40 litres/capita/day and for public standpost at 5 to 25 l litres/capita/day. The guidelines specify that actual specific consumption is to be based on reasoned assumptions by the designer based on all available information and must be documented accordingly in the feasibility study and the design report.³⁴¹

Although these guidelines are based on practical studies and hence builds on market analysis, it has to be stressed that the consumption rate expected for public standpipes falls short of the international minimum requirement of 20 litres/capita/day. Given that authorities should work toward the insurance of this amount for each water supply project, this estimation should be amended.

In contrast, this minimum requirement is observed in the Water Supply Design Manual,³⁴² which provides the figures on per capita consumption of 20 litres/capita/day for small towns up to 5,000 persons, 35 litres/capita/day for medium towns up to 20,000 persons and 50 litres/capita/day for the larger towns. The bottom line consumption rate remains at 20 litres/capita/day for low income households using kiosks or public taps in both rural and urban area. It is set at 40 litres/capita/day for yard taps used by multiple low income households and at 50 litres/capita/day for yard taps used by single low income households.

Concerning educational institutions, the Sectoral Specific Schedules advises that primary schools and the surrounding community are to be regarded as a priority target.³⁴³ The Water Supply Design Manual recommends the water demand to be based on the situation prevailing at the time of scheme design, the development plans of the Ministry of Education and Sports, Ministry of Health and other large institutional consumers.³⁴⁴ The preliminary estimates are to be based on the assumption of the attendance of primary and secondary schools by 40% of the population with respect to the data on demography for relevant class of age with due account of the population growth rate. It should further include educational staff and requires day school and boarding school to be treated separately. Also, the water demand of the surrounding should be taken into account to ensure and protect access for pupils. The design study should address sanitary standards with regard to the use of water closets promoting the use of “Low Flush” toilets.

For health institutions, the manual recommends water demand to be based on the situation prevailing at the time of scheme design, the development plans of the Ministry of Health and the District Local Governments and the projected growth of the local population, taking into account the fact that the National Developed Plan is planning a ratio of 20,000 people by health centre. The manual displays the following general figures for institutional water demand:³⁴⁵

Table 9 : Institutional water demand

CONSUMER	UNIT	RURAL l/d	URBAN l/d	REMARK
Schools				
Day Schools	l/std/d	10	10	With pit latrine
			20	With WC
Boarding Schools	l/std/d	50	100	With WC
Health care Dispensaries	l/visitor/d	10	50	Out patients only
Health Center 1	l/bed/d	20	50	No modern facilities

³⁴¹ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 35.

³⁴² MWE (2013), Water Supply Design Manual Second Edition: Chap.2 p.4.

³⁴³ MWE (2012), Sectoral specific schedules/guidelines 2012/13: p. 11.

³⁴⁴ Ibid. Chap. 2 p. 5.

³⁴⁵ Ibid. Chap. 2 p. 6.

Health Center 2	l/bed/d	50	70	With maternity With pit latrine
Health Center 3	l/bed/d	70	100	With maternity With pit latrine
Health Center 4	l/bed/d	100	150	With maternity With WC
Hospital, District	l/bed/d		200	With surgery unit
Hospital, Regional Referral	l/bed/d		400	With surgery unit
Administrative Offices	l/worker/d	10	- 70	With pit latrine With WC

Source: *Water Supply Design Manual 2013*

Although international references do not set out specific standards for water availability with respect to institutions, the WHO guidelines specifies that individuals suffering from health problems require a higher quantity of water than the minimum standard. It may be derived from this that health centres not providing at least 50 litres per day to their patient may not meet this requirement. In addition, the water demand estimation also needs to include a sufficient amount to cater for health operations and strict hygiene and sanitation standards. Furthermore, the guidelines have not integrated a ratio of latrine for schools and they do not display any standards for health institution or institutions including places of deprivation of liberty, since no standard has been set.

In order to ensure continuous supply for water, the infrastructure needs to be financially sustainable and adequately managed. In compliance with its international commitments, the state has the duty to ensure the delivery service of water and sanitation to its population. It has nevertheless the leeway to delegate this task to third parties such as national company, private sector or communities themselves but remains responsible for the functioning of these services. That requires the setting of a regulatory framework to control all delegated services and due intervention in case of major failure to ensure services.

With respect to Uganda, the WASH sector includes several service delivery models: the Community Based Management System (CBMS), management in emergency situations, centralised management, decentralised management, the NWSC model and Umbrella Organisation.³⁴⁶

As regards rural areas and RGCs, the CBMS is the main service delivery model and the official one to be applied, although not presented as such in the straight forward manner.³⁴⁷ It is the model with the strongest involvement of communities as they are made responsible of the operations and maintenance (O&M) of the water facilities. This responsibility may vary depending on the complexity of the water facility. For simpler technologies such as protected spring or shallow wells, government's involvement may be minimized or eliminated.³⁴⁸

To endorse their responsibility for the management of water facilities, communities should set up and elect a Water and Sanitation Committee (WSC), identify caretakers for maintenance and establish rules and regulations for the use of the water source. In case of breakdown, small repairs should be performed independently while they may seek support from authorities for major repairs.

The sub-county authorities have the mandate to plan and oversee implementation of development programmes. They have thus responsibilities for the follow-up support and monitoring of O&M, for the co-financing of major repairs, the supervision of private actors involved in O&M operations and the enactment of bylaws. Moreover, they should hire Hand-Pump Mechanic (HPM) or Scheme Attendant and provide custody for O&M toolkits.³⁴⁹

The district authorities are responsible to monitor the performance of O&M and to take steps to address shortcomings with support from DWD. They should thus provide support to sub-counties, budget for major

³⁴⁶ MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 8.

³⁴⁷ Ibid. p. 13: "Some other approaches [than CBMS] are still in use in different parts of the country and while these may not be desirable to promote, they are mentioned for completeness."

³⁴⁸ Ibid. p. 9.

³⁴⁹ Ibid: p. 12.

repairs and rehabilitation, implement training for O&M professionals, provide O&M toolkits, manage a stock of spare-parts to be sold to WSCs and enact byelaws and ordinance on O&M.

The central government endorses its responsibilities toward O&M through the MWE but also through the Ministry of Health and the Minister of Gender, Labour and Social Development, which are the two line Ministries in charge of extension workers (Health Assistant and Community Development Assistant) at sub-county level. The central Government is responsible for the legislation, policy, standards, guidelines and regulation for O&M. Besides, it has the responsibilities to plan, budget and mobilise funding at national level, to provide support to local governments, to monitor and enforce the compliance with the legal and policy framework.³⁵⁰ Nevertheless, it should be noted that the National Framework for O&M stresses a lack of institutional setting within the DWD to manage O&M.

NGOs and CBOs may also be involved in the O&M of water and sanitation facilities whether by using their own resource or by being tasked by DLGs who may outsourced software activities through a procurement process. In any case, they should enter into a MoU with the Chief Administration Officer (CAO) of the district in compliance with the strategic framework for cooperation between local governments and NGOs for water and sanitation.³⁵¹ NGOs may be involved in the financing, construction and maintenance of water facilities. They may also build capacities of local governments and contribute to the monitoring of the functionality of water points.

Finally, the private sector is involved in the construction and maintenance of water facilities, and in the businesses of spare-parts. According to the National Framework for O&M, the DWD has implemented an initiative to organise four regional distribution networks for hand-pump spare parts managed by private actors that would collaborate with district outlets.³⁵² The private sector may as well be contracted to manage water facilities on behalf of users or to implement community mobilisation and training.

In case of emergency situations, the CBMS should be dropped for other approaches such a centralised and decentralised management model or NGO supported management model that require little involvement of communities³⁵³ and no cash contribution.³⁵⁴

In the frame of CBMS, it should, however, be noted there is lack of clarity with respect to the ownership of the facilities that stems from incompatible provisions in the legal and policy framework. Whereas the NWP, 1999 states that the communities are the owners of the improved communal water facilities, the Water Statute vests the ownership in DWD, with the community managing and maintaining it for their joint benefit.³⁵⁵ The National Framework for O&M instructs that where CBMS is applied, DWD can facilitate the registration of the WUCs, establish themselves as CBOs, and register with the District Community Development Officer (DCDO) to become legal entities.³⁵⁶ The fact that users are not clearly designated reduces the sense of responsibility so that the production of a register of users is recommended.³⁵⁷ Further, the National Framework for O&M specifies that whereas ownership of the point water sources is ideally supposed to be vested in the user communities, ownership in RGCs is by the sub-county authorities, in urban areas by water authorities and remains with the central government for big urban water systems.

As regards small towns, water facilities are managed by the local authorities who enters into a performance contract with the MWE and selects a private operator with whom they signed a management contract. Sub-county authorities or Town Councils are appointed Water Supply and Sewerage Authorities (WSSA) and should then form a Water Supply and Sanitation Board (WSSB), whose role is to oversee management of water and sanitation facilities put in place.³⁵⁸ In terms of participation and representativeness, the WSSB of

³⁵⁰ Ibid: p. 13.

³⁵¹ MWE (2007), Strategic Framework 2007-2012: Cooperation between Local Government and Non-Governmental Organizations in the water and sanitation sector.

³⁵² MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 29.

³⁵³ MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 13.

³⁵⁴ MWE (2012), Sectoral specific schedules/guidelines 2012/13: p. 10.

³⁵⁵ MWE (2013), District Implementation Manual Revised: p. 66; MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 16.

³⁵⁶ MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 17.

³⁵⁷ Ibid: p. 35.

³⁵⁸ MWE/DWD (2014), Operations Manual for the Water and Sanitation Development Facility.

five members should respect gender balance and include three members drawn from the various categories of water users (domestic users, private sector, urban poor, institutional users) in the service area.³⁵⁹ The WSSA has the duty to ensure the continuous supply of water, which should be at a minimum of 14 hours per day and be available at every standpipe and the first cold water tap on all lands or premises connected to the water supply.³⁶⁰ The WSSA has the duties to maintain (preventive and regular) and keep in good repair and working condition all assets owned by it, or under its management or control; ensure that the water supply system operates effectively at all times; and take appropriate action within five hours of **any failure** in any part of the water supply system being discovered by it, or brought to its attention.³⁶¹

Challenges on Availability

- Lack of institutional setting within DWD to control the O&M under CBMS.
- The National Framework for O&M does not provide guidance on how to manage a situation requesting major repair where communities fails to demonstrate appropriate maintenance.
- Lack of guidelines for regulation of private operators in small towns and in rural areas.
- Lack of independent regulatory mechanisms with respect to the operations of NWSC.

3.8.3. Affordability

The principle of affordability requires the state to ensure that the costs of water and sanitation services charged to the households are set within a reasonable proportion of their monthly disposable income in order for to ensure its access and for other basic services protected by human rights law to remain financially accessible. While assessing the costs related to these services, the special rapporteur on the human right to water and sanitation recommends that all forms of household contributions be taken into account³⁶², e.g. both direct and indirect costs. While international organisations do not have a common position on the required standard, it is acknowledged that water and sanitation costs, including hygiene, that exceed 5% of the household disposable income should be considered as unaffordable.³⁶³

Setting the financial contributions of households is directly related to the choice of technology options and their related operation and maintenance systems and should be undertaken with due consultation of the beneficiaries, in particular most vulnerable and marginalised groups, in order to tailor the design of infrastructures to their needs and their financial capacities. In doing so, the most challenging component of the assessment is to distinguish between the ability to pay from the willingness to pay, since human rights law protects households that do not have the financial capacities but not those who lack willingness to pay.

This principle of ability to pay may prove to be more difficult to implement in rural areas and informal settlement zones both characterized by high level of informal economy. When requesting information on affordability, communities might under-value their income to be charged on lower costs or over-value their income to get access to a highest standard of technology. Even though the concept of progressive realisation calls for a variety of technology options, low level of income from disadvantaged communities should however not result in overlooking the compliance with the minimum level of services for water and sanitation. Whenever required, state should, as relevant consider subsidies or special tariffs to ensure the provision of water and sanitation services to the most vulnerable and marginalised groups. In any event, the guiding principle for setting affordability policies is that a mistake of inclusion is far more preferable than a mistake of exclusion from the perspective of human rights, public health and long term economic development.³⁶⁴

Uganda Official Standard for Affordability

There is no independent economic regulatory body for water supply. Tariffs are proposed by NWSC and need to be approved by MWE. Although Uganda's official policy is to promote tariffs that cover all costs,

³⁵⁹ MWE, Performance Contract for Water Supply and Sewerage Authorities: Sixth Schedule.

³⁶⁰ Ibid: Seventh Schedule.

³⁶¹ MWE, Performance Contract for Water Supply and Sewerage Authorities: Seventh Schedule.

³⁶² United Nations (2011), Report of the Special Rapporteur on the human right to safe drinking water and sanitation to the 66th sessions of the General Assembly, A/66/255.

³⁶³ Guy Hutton (2012), Monitoring "Affordability" of water and sanitation services after 2015: Review of global indicator options: p. 15.

³⁶⁴ UN-HABITAT, SDC, AAAS, and COHRE (2008), Manual on the right to water and sanitation: p. 144.

the NWSC tariff actually only covers operation and maintenance costs. The second performance contract between the Government of Uganda and NWSC provides for a tariff policy which in the long term covers operation, maintenance, and a part of the future investments. For small urban water supply, there is an interim arrangement for regulation - a regulation unit within the MWE - which guides on town specific tariff setting using a business planning tool. MWE's own indicators on tariffs show that the increase over recent years is well under the rate of inflation with a consequential smaller margin above base O&M costs and meaning less funds available for rehabilitation/replacement, thus resulting in schemes becoming less and less sustainable.

While a number of sectoral guidelines³⁶⁵ tends to merge the question of ability to pay with the willingness to pay, the recently published Design Guidelines of Water Supply Infrastructure in Uganda provides guidance specifically on the issue of affordability. The Design Guidelines inform that the principle of affordability is "based on the assumption that **5% of household revenue** can be dedicated to water related expenses (water supply and sanitation/sewerage),"³⁶⁶ and that 2% of household revenue be dedicated to water more specifically.³⁶⁷ It is still to be assessed to what extent the guidelines focusing on water piped schemes, constitute the official reference for the sector at large. Indeed, the implementation of this standard requires a strong coordinated approach to ensure that water and sanitation cumulative costs do not exceed the stated threshold at the household level.

Regarding urban areas, the guidelines for piped water schemes require carrying out socio-economic studies, using graph of expenditures and cumulative percentages of ability to pay proportions, to determine tariff structure and related service levels following the succeeding principles for the choice of technologies:

- The poorer the population, the lower the water price should be (if no subsidy is introduced).
- The poorer the population, the more subsidisation is required for paying the connection fee (yard taps), during and after construction.
- The lower the water price, the lower the costs for operation and maintenance (O&M), incl. management must be.
- The lower the available budget for O&M, the more gravity systems are necessary, the less water treatment can be included (but water quality standards must still be met).

The overall result might be that an option will be selected which is not the best option when making the overall financial calculations, but which is affordable for the population in terms of covering O&M cost.

For existing systems, the tariff shall be based on actual O&M costs of the water supply infrastructure rather than an assessment of affordability. In case the tariff exceeds affordability, compensation measures have to be established, after clarification whether any possibility of reducing O&M costs has been implemented (detailed analysis of current O&M conditions)."³⁶⁸

Further, the guidelines stress the need to obtain the data on affordability level and to compare it against the different options for cost efficiency prior to initiate the process of technical design. It distinguishes the affordability level for water supply specifically, which is set at 2% of household income on the basis of the fact that sanitation is more expensive on the long term.³⁶⁹ The proposed approach to measure affordability level of water is to divide the 2% household income by an estimation of the water consumption per month, expressed in UGX/m³. In that respect, the sectoral specific schedules 2012/2013 states that a maximum allowable tariff must be set at 1,800 UGX/m³.³⁷⁰ In case the affordability level cannot be met, the design guidelines propose the following not exhaustive list of alternatives:

³⁶⁵ MWE (2013), District Implementation Manual – Revised; MWE (2013), Water Supply Design Manual Second Edition; MWE (2009), Operations Manual for the Water and Sanitation Development Facility; MWE (2011), National Framework for operation and maintenance of rural water supplies in Uganda.

³⁶⁶ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 35.

³⁶⁷ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 106.

³⁶⁸ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 23.

³⁶⁹ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 106.

³⁷⁰ MWE (2012), Sectoral specific schedules/guidelines 2012/13: p. 36.

“Political level:

- Stopping all actions for water supply (option zero).
- Check whether the service area can be reduced to one that is densely populated and leave extensions to currently less densely populated areas for the future.
- Subsidisation of O&M
- Cross-subsidisation by having higher tariff levels for non-domestic customers (where applicable).
- Installing block tariffs with higher rates upon a certain consumption level, the lowest block rate is then cross-subsidized by the people who can afford a higher consumption (to be thoroughly assessed).

Design level:

- Increase the number of public standposts and reduce the number of yard taps and house connections (to be clearly mentioned in the report so that LGU [Local Government Unit] can take appropriate decisions on limiting the number of connections). This will reduce water consumption and thus reduce capital cost and O&M cost (especially appropriate for systems with high cost of water treatment and/or energy cost).
- Change the water source (if applicable) to gravity supply.
- Find alternative designs in order to reduce cost.”

Regarding political level alternatives highlighted above, it is clear that the two first options are the least preferable from a human rights perspective as they are not in line with the objective to serve the most vulnerable and marginalised groups.

With respect to the Water Supply Design Manual, the question of ability to pay is addressed in the process of assessment of water demand through socio-economic studies to determine service levels. Yet, it is merged with the concept of willingness to pay without specification on how to distinguish both and it relies on the circular rationale that data on ability and willingness to pay determine tariffs that in turn influence the ability and willingness to pay.³⁷¹ Further, under financial and economic analysis for the design of water supply projects, the manual mentions the need to assess how the water supply project benefits the poor in the frame of risk and sensitivity analysis. It provides a general statement on the poverty reduction assessment pertaining to respective economic benefits of different groups³⁷², yet it offers no clarity in the proposed calculation formula how the interests of poorest groups and the issue of affordability might be taken into account. Overall, the designing process described in this manual does not clearly integrate the guidelines on affordability mentioned above as a guiding principle for the development of water piped schemes.

Regarding small towns and RGCs, the tariffs, fees, rates and charges expected to be raised by the WSSA should be set in the Business Plan of the water scheme that is validated by the MWE.³⁷³ The WSSA has the obligation to respect these financial conditions and any new tariffs introduced has to be implemented within 45 days after MWE’s approval.³⁷⁴ The Business Plan has to be revised on a yearly basis by the private operator and submitted to the WSSA and includes the request for likely change in tariff setting.³⁷⁵

Furthermore, the private operator has the obligation to comply with any community service obligations or pro-poor programmes required to be undertaken by the WSSA in the Area, including without limitation provision of water supply and sanitation services at subsidized rates or no cost to selected customers within the Area, provided that the operator shall be entitled to recover the actual cost of providing such services in addition to its management fees.³⁷⁶

As regards to charges for urban areas under the NWSC mandate, the company publishes its fees and tariff online. The tariff may be indexed at the beginning of each financial year according to the Statutory Instrument 2006 No. 30. The 2014 tariffs for household consumption are the following³⁷⁷:

³⁷¹ MWE (2013), Water Supply Design Manual Second Edition: Chap.2 p.4.

³⁷² MWE (2013), Water Supply Design Manual Second Edition: Chap.12 p.14.

³⁷³ MWE, Performance Contract for Water Supply and Sewerage Authorities: art. 4.8.6.

³⁷⁴ Ibid: art. 4.8.14 and 4.8.15.

³⁷⁵ MWE, Management Contract for Water Supply and Sanitation Services: art. 8.10.1 and art. 8.10.6.

³⁷⁶ Ibid: art. 8.2.2.

³⁷⁷ NWSC (2014), Applicable tariff structure effective from 1st July 2014.

Table 10: 2014 tariffs for household consumption

I: WATER		
<i>a) Metered Charges</i>	<i>Charges per Cubic meter in UGX</i>	
Public standpipes	1,323	
Residential	2,046	
<i>b) Un-metered Charges</i>	<i>Consumption</i>	<i>Charges per Month in UGX</i>
Public standpipes (Assessed at UGX 1,323/m3)	75 m3	99,225
Residential (Assessed at UGX 2,046/m3) N° of taps 1	6 m3	12,276
N° of taps 2 – 4	18 m3	36,828
N° of taps 5 – 8	30 m3	61,380
More than 8	45m3	92,070
II: SEWERAGE		
<i>General</i>		
Sewerage charges for all properties connected to the sewers are based on:	i) For Domestic category	75% of water charge
	ii) For other Categories	100% of water charge
<i>a) Metered Charges</i>	<i>Charges per Cubic meter of water consumed</i>	
Residential	1,535	
<i>b) Un-metered Charges</i>	<i>Consumption</i>	<i>Charges per Month in UGX</i>
Residential (Assessed at UGX 1,535/m3) N° of taps 1	6 m3	9,210
N° of taps 2 – 4	18 m3	27,630
N° of taps 5 – 8	30 m3	46,050
More than 8	45m3	69,075
Service Charges for Water [unchanged]		
<i>Domestic</i>	<i>Consumption</i>	<i>Charges per Month in UGX</i>
12mm supply ½"	6m3 per month	1,500
20mm supply ¾"	30m3 per month	2,000
25mm supply 1"	45m3 per month	5,000
Yard Tap		2,000

Further, the document specifies that where water is supplied on a common connection to mixed commercial, Industrial, Institutional and/or domestic premises, all water will be charged at the highest tariff rate applicable. Besides, whereas tariff structure set a flat rate for domestic and institutional metered charged on water and sewerage, the commercial metered charged for water and sewerage model is decreasing block tariff.

With respect to connection fees, the NWSC site provides the information that "connection expenses are calculated by the surveyor based on the connection type, distance from the mains, whether it is a new

connection or separation of account. NWSC caters for connection expenses within 50 meters, beyond that, the customer caters for any extra metres.”

Finally, no policy guidelines have been found on the issue of disconnection of piped water users (pf water for domestic and personal use) for non-payment. However, the NWSC service Charter specifies that disconnections for non-payment are preceded with a disconnection notice seven days before the disconnection is effected. Reconnection is effected within six hours of the customer meeting the requirements including reconnection fee payment. The human rights based approach requires that the disconnection procedure be preceded by due information to the user and an assessment step to analyse the financial situation of the user and to ensure that the user has access to an alternative water source with minimum service level. If it is not the case, the disconnection should not be considered legal under human rights law. Likewise, when water-borne sanitation is used, water disconnections must not result in denying access to sanitation.³⁷⁸

For rural areas, the policy on affordability is set in the frame of the community based management system (CBMS). The CBMS requires a minimum contribution by the communities toward the construction costs³⁷⁹. This contribution is considered as an important initial step for the ownership by communities of the management process of water and sanitation facilities. In order to succeed, the National Framework for O&M of Rural Water Supplies in Uganda states the necessity to ensure coherence and harmonisation by adopting a similar approach within the WASH sector³⁸⁰ as well as outside the WASH sector for public services such as education, health and road.³⁸¹ Practices asking too little or no contribution by communities are perceived as undermining the sustainability of the CBMS model. However, while this contribution is considered as a proof of involvement of communities and a demonstration of the financial capacities with respect to the different service levels, the issue of the actual ownership of the facilities remains unclear.

As it is the case for urban piped schemes, a socio-economic study is undertaken during the pre-construction phase to determine the technology options with respect to the financial means of the communities. Yet no distinction is made between the capacity and the willingness to pay.³⁸² The contributions requested per technology options are standardised in the sectoral specific schedules 2012/13³⁸³:

Table 11: Contributions per technology options

Type of Technology	Community Cash contribution per Source (UGX)
Springs: Small	45,000
Medium	45,000
Ex- Large	100,000
Deep borehole	200,000
Shallow well (motor drilled/ hand augured/ hand dug)	100,000
Borehole rehabilitation	90,000
Gravity Flow Scheme	45,000 per tap
Valley Tanks and Dams	Not specified – Determined According to Situation.

³⁷⁸ UNHRC Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation (2010), “Good Practices” related to Access to Safe Drinking Water and Sanitation: Questionnaire [Question n°3].

³⁷⁹ MWE (2013), District Implementation Manual Revised: p. 51.

³⁸⁰ References are given on NGOs that do not follow this approach and on the centralised management model as the former model that may still apply for emergency situation. MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: 13.

³⁸¹ MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 15.

³⁸² MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 21.

³⁸³ MWE (2012), Sectoral specific schedules/guidelines 2012/13: p. 18.

The document specifies that communities might revert to in-kind contributions. However the given items must be sold in cash by the communities prior to payment.

With respect to contribution to the O&M costs, the National Framework for O&M of Rural Water Supplies in Uganda provides a range of different options for collection of users' fees to be selected by the Water User Committee at the planning phase³⁸⁴:

1. Fixed fee per household
2. Fee per jerry can
3. Taxation
4. Donations and Auctions
5. Selling of produce
6. District contribution
7. Government grants
8. When need arises
9. Revolving funds.

Communities have thus the leeway to set their O&M costs contribution policy, including commercialised services, periodical cash contribution or in-kind contribution such as labour for maintenance tasks. The O&M plan of each facility should however clearly set the source of revenue. This framework further advises that the option of fixed fee per household is suitable for low income communities and that district contribution and government grants may contribute to cross-subsidising for low income communities and for emergency situation.³⁸⁵

With respect to special measure for most vulnerable and marginalised groups, the sectoral specific schedules 2012/2013 provides for the direct payment of O&M costs of IDP camps by the water sector grant because of the loss of livelihoods of displaced persons³⁸⁶, but no other groups are targeted.

Rather, the main policy answers to the lack of subsidies are first rain water harvesting and secondly self-supply initiatives. The guidelines for rain water harvesting specifies that this approach should "only target the disadvantaged groups such as the widows, HIV patients, extremely poor homes, etc." The options proposed for household contribution are to be raised whether by revolving funds, or by individual or collective loan at microfinance institution. The guidelines set a threshold of contribution at 40 % of the cost of the tank but this has since been scrapped off following a presidential directive once it was confirmed that this provision benefitted the well-to-do instead of the targeted poor and vulnerable groups.³⁸⁷ Under self-supply initiatives, the investment costs for the construction of water and sanitation facilitates are provided either in cash or in-kind by communities³⁸⁸. The limits of contribution are thus directly set by the financial means of the communities whereas the quality control should be ensured by the state but is seemingly failing due to lack of definition of institutional role as mentioned previously.

There are a number issues that affect the realization of affordability criteria in Uganda:

- Lack of Disconnection policy
- Lack of flexible scheme for connection fees
- It is not clear however what the rationale may be for community contributions toward public services that are not management by them, such as roads and health centres. Furthermore, it has to be emphasized though that under the Covenant on Economic, Social and Cultural Rights, the state has the obligation to ensure affordability of each services that aim at the realisation of its rights, hence requiring a trans-sectoral coordinated approach may the community contributions be systematically requested for the provision of basic rights.

³⁸⁴ MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 27.

³⁸⁵ Ibid. p. 48.

³⁸⁶ MWE (2012), Sectoral specific schedules/guidelines 2012/13: p. 10.

³⁸⁷ MWE (?), Proposed guideline for implementing Rainwater Harvesting activities in Uganda: p. 5.

³⁸⁸ MWE (2013), District Implementation Manual Revised: p. 95.

- Flexible collection of funds is good but one-off payment in case of breakdown might not be affordable for communities. In case of disruption of the water or sanitation services, the state remains responsible for the continuous supply. The cost of spare parts seem unaffordable to communities. Apart from preventive maintenance, there is an issue of timely payments in order to secure spares required. Affordability may be ensured if it is based on percentage of household budget (affordability/ability to pay).

3.8.4. Quality

Water and sanitation services should be provided in such a way as to protect the health of users and the general public. Water must be **safe for human consumption and for personal and domestic hygiene**. Sanitation facilities must be **hygienically and technically safe** to use and must effectively **prevent human, animal and insect contact with human excreta** to protect the health of users and the community. All toilets must allow for anal and genital cleansing, commonly with toilet paper or water. Furthermore, toilets must provide hygiene facilities for washing hands with soap and water and must enable menstrual hygiene management for women and girls, including the disposal of menstrual product.

Water must be protected from contamination, including through the prohibition of dumping sewage or waste and the containment of seepage of fertilizers, industrial effluents and other pollutants into the groundwater.

The criteria of quality expects states to develop and implement water quality standards that must be monitored and enforced. Although WHO guidelines on water quality may provide guidance, states must always consider their national and local situation and must also bear in mind that minimum standards may fail to meet individual's particular needs, such as for persons that are particularly vulnerable to infections, and must therefore never be used as absolute standards. Additionally, the obligation to progressively realise the rights requires standards to improve over time.

According to this criteria, states must also take positive measures to ensure hygiene promotion and education to all, and to take positive measures to monitor water quality standards, tackle water pollution and ensure compliance with national wastewater purifications regulations, especially for drinking water suppliers.

With respect to the surveillance framework pertaining to water quality, it is important to adopt an integrated approach covering water catchment, storage and transport/transmission that should all foreseen protective measures. In that respect, piped schemes into premises differs from both non-piped schemes and collective or public point source from piped schemes as it integrates de facto these aspects under the management of the water suppliers. Whereas for water not provided directly in dwellings, the transport and storage is implemented by the water user, or right-holder. Yet it is often those two steps that are the most vulnerable to water contamination.

Given that it primarily affects the most marginalised and vulnerable groups, it should be emphasized that states should address these specific situations in priority and implement a strong coordinated approach between different line ministries to thoroughly address the safe water chain. Moreover, the water quality should not only be addressed from the point of intake but more generally at the level of the protection and conservation of the water resource in order to ensure sustainability both in terms of quantity and quality.

Uganda Official Standard for Quality

The standards and guidelines for water quality management in Uganda are outlined in the following official documents:

- the National Standards for drinking (potable) water, 1994;
- World Health Organization (WHO) guidelines with due consideration to specific local conditions and water use habits;
- National effluent standards for discharge of wastewater into the environment, 1998; and
- a provisional water quality guideline (1996) for untreated rural water supplies.

The Ugandan standards on water quality on drinking (potable) water³⁸⁹ follow the 2006 WHO Guidelines for Drinking-water Quality and are set out in the US 201 (2008). This standard distinguishes between two classes of drinking water: conventional treated water and untreated or rural water defined as “water that is either mined or harvested from natural sources without any conventional treatment applied to it such as borehole water, spring water, shallow wells, or harvested rainwater”.

“a) Class I potable water available from conventional treatment processes such as chlorination, filtration, and ozonation; and used in food establishments or distributed through the water distribution systems. This water is comparable to current international standards for water quality. This water is considered to be acceptable for lifetime consumption, and is the recommended compliance limit.

b) Class II (untreated water) potable water available for water consumers through boreholes, protected springs, shallow wells, gravity flow schemes and harvested rain water which may be used for consumption in accordance with the guidelines provided by the Directorate of Water Development (DWD). This class specifies a water quality range that poses an increasing risk to consumers depending on the concentration of the determinant within the specified range and the possibility of monitoring its quality. It is considered to represent drinking water for consumption for a limited period.”

The document does not, however, specify the timespan of validity of the second class. Also, the stated DWD guidelines of class II are not referenced in the document. The review of the DWD guidelines showed a potential difference in application of the standards: some documents³⁹⁰ refer to this standard while others³⁹¹ refer to the 2007 Water Quality Standards produced by MWE. Of concern is the fact that when these two documents are cross-checked, they reveal a discrepancy in the scope of substances to monitor and some slight differences in the figures of acceptable values of harmful substances. In addition, the latter reference displays a second set of value for Maximum Acceptable Concentration (MAC) that are higher than the acceptable values. Thus there seems to be a need to clarify what the official references are since there is a lack of clarity on this.

Furthermore, the standards for discharge of effluent into water quality standards are set in the National Environment (Standards for Discharge of Effluent into Water or on Land) Regulations, S.I. No 5/1999. The prescribed substances and the prescribed trades and premises requiring a waste discharge permit are set in the Water (Waste Discharge) Regulations, No. 32/1998.

Implementation of the standard in guidelines

Water quality management in Uganda is organised on the basis of the distinction between operational water and ambient or resource water. Operational water tackles the performance of water quality management of water supplies and water treatment facilities. Whereas resource or ambient water tackles the water quality management of major watercourse and groundwater, using ad protective measures mainly through catchment planning management and regulatory control through water abstraction permits and wastewater discharge permits.³⁹²

With respect to operational water, all water facilities providing drinkable water are expected to produce a water safety plan (WSP), as recommended by the US 201 2008, in order to secure a comprehensive risk assessment and risk management approach to the service.

The US 201 2008 also specifies the general surveillance requirements: “Drinking-water suppliers shall ensure, at all times, the quality and safety of the water that they produce. Public health surveillance (that is, surveillance of health status and trends) contributes to verifying drinking-water safety.

Adequate infrastructure, proper monitoring and effective planning and management; and a system of independent surveillance are basic and essential requirements to ensure the safety of drinking-water. The NWP, 1999 defines 3 broad strategies within which mechanisms are provided for Water Quality

³⁸⁹ UNBS, US 201 (2008) (English): Drinking (potable) water (2nd Edition).

³⁹⁰ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda; MWE (2013), Water Supply Design Manual Second Edition.

³⁹¹ MWE (2013), District Implementation Manual Revised; MWE (2013), Framework and Guidelines for Water Source Protection, vol. 2 & vol. 3.

³⁹² MWE (2006), National Water Quality Management Strategy.

Management Strategy development: enabling environment; institutional arrangements/development; and support to planning & prioritization.

According to the National Water Quality Management Strategy (2006), the Government of Uganda's commitment to sustainable development reflects a clear predisposition to protect and enhance the quality of the nation's water resources. The Policy on water quality management endorsed by the Government of Uganda (GoU) has given impetus for the development of the National Water Quality Management Strategy. This impetus is expressed in the overall NWP Objective 4.1:

To manage and develop the water resources of Uganda in an integrated and sustainable manner, so as to secure and provide water of adequate quantity and quality for all social and economic needs of the present and future generations with the full participation of all stakeholders.

Derived from this, the proposed Vision for Water Quality Management in Uganda is:

[R]educed poverty through effective water quality management" while the mission statement is -"improved water quality management to guarantee water of suitable quality to meet all socio-economic development and environmental needs. (pg 6)

Clear linkages between water quality and the economy are established. For instance, in its description of the water quality relevance to PEAP, the NWQMS strategy acknowledges that *"Safe water for all citizens is a basic right. Effective water quality management at all levels will guarantee safe water provision"* (see Table 1 *Contribution of water quality management to key dimensions of PEAP*). NWQMS additionally provides linkages between the effective water quality management and conservation of ecosystem, integrity, improved public health, hence emphasizing linkages between improved productivity of the population, poverty reduction and promoting sustainable socio-economic development, (pg 20).

According to the Strategic Objective of the NWQMS, the key principle and policy related objective is to link the water quality monitoring objectives with (i) the set of Environmental Values given in Clause 4.3.3 of the National Water Policy, 1999; (ii) national and international commitments (Poverty Eradication Action Plan (PEAP), Vision 2035, Reform Strategies, Millennium Development Goals (MDGs), Agenda 21, Chapters 17 and 18), and National environmental responsibilities.

The key operational purpose of the Water Quality Management Strategy is therefore to make sure that water quality is recognized as a cross cutting issue, and its management is mainstreamed in all water, sanitation and environment management activities. The NWQMS mentions existence of national water quality monitoring networks (119 stations) for basic and several operational stations under National Water and Sewerage Corporation (NWSC), (800 sampling points for process control and distribution network; and 98 points for sewage and effluent monitoring) and community/NGOs monitoring programs; several water testing laboratories in the country; relational National Water Quality Database is a very good starting point to evaluate options for data management.

The NWQMS further advocates for Water quality objectives being established and included in the planning processes of catchment management plans and in IWRM principles for water resources assessments, socio-economic development, land-use, environmental plans, sector plans and policies, pg 8. In order to implement the NWQMS, 10 strategic targets are defined together with an implementation plan (2007-2015) as well as an estimated budget for its implementation USD 40 million.

Water safety is incorporated in the national constitution Objective (xiv) and in the Water Act Objective (d) **to control pollution and to promote the safe storage, treatment, discharge and disposal of waste which may pollute water or otherwise harm the environment and human health (see Section 31).**

Inherent in the NWP's overall policy statement is the concept of sustainable development as well as the recognition of water quality as a critically important characteristic of the water resource and its use to meet the social and economic needs of the population. The NWP, 1999 makes a distinction between policies for water resources management and policies for water development and use, covering domestic water supply, water for agricultural production and other water uses, such as industry, hydropower, recreation and ecosystems needs. It is notable that water quality is, however, a dominant factor cutting across both water

resources management, development and use and as such WQM is essential for the efficient and effective use, conservation and protection of the resource.

In particular, WQM will support the domestic water use, which has first priority among the use categories and where the policy objective is:

“Sustainable provision of safe water within easy reach and hygienic sanitation facilities, based on management responsibility and ownership by the users”

Additionally, a number of key policy directives given in the NWP are relevant to WQM. These comprise of some of the key normative and procedural components of the human right framework including:

- participation (multi-stakeholder engagement and coordination, efficient planning and implementation at national and decentralized levels),
- accountability,
- water safety, and
- access to information.

In addition, the NWP outlines several strategic principles relating specifically to water quality management, environmental sustainability and equity. It is clear that for the NWQ, in the policy directives and the strategic principles highlighted above, the HRWS normative criteria for quality is well captured in the NWP but the challenge lies in regulation and effective monitoring especially in rural districts. The problems facing Uganda related to water quality stem from point pollution, catchment degradation and extreme events rather than scarcity of water resources although it is recognized that in some cases locally there are scarcity problems. Water Quality issues are in many cases so serious and obvious that waiting for a Catchment Management Plan is not needed, but will only be delaying urgent enforcement of existing regulations. One of the questions to pose here is - why have the current system of “enforcement” monitoring not created the desired results in terms of pollution reduction and of the systems’ cost effectiveness and sustainability compared to alternative strategies for pollution abatement?

Regulation of water quality

The Water Act (under Section 107 *Regulations see items o, s, n and r*) specifies the crucial role of the Minister on making regulations:

- (o) classify water by reference to its quantity, quality or possible use;
- (s) provide standards for the quality of water supplied for domestic use;
- (n) prescribe standard conditions to be attached to water permits, waste discharge permits or other permits or different classes of any such permits; and
- (r) provide for the prevention of waste, misuse or pollution of water.

In addition, in the NWP, 1999 (page 6), section 29 (5) the role of the Water Policy Committee (WPC) is highlighted and at the request of the Minister or on its own initiative, WPC may prescribe (see also section 35) or prepare guidelines or conditions concerning waste discharge permits and recommend them to the Minister. Note that section 30 (page 17) however makes provisions for redress on cancellation of permits for discharge.

According to the NWP, Chapter 4 under 4.4. iii) *the use of water resources will be regulated through the administration of permits for water abstraction that specify the types of uses that need to be regulated as well as the abstraction fees to be charged*. This function will initially be the role of Central Government through DWD, which is required to carry out assessment of cross-boundary sources, and on this basis distribute block allocations of water rights to the districts concerned – which, at that juncture will then administer a permit system for the allocated amounts.

The management of a wastewater discharge permit system is presented as a *permanent national function (under DWD in consultation with NEMA) because of the detailed technical expertise required, and because of the need to ensure adherence to international and national standards*, (see Chapter 4 under 4.4. iv). DWD therefore has a national role to play in the: Monitoring, assessment and forecasting of water resources and water quality; Managing surface water, groundwater and water quality data banks; and Disseminating data on water resources to relevant agencies and users.

For district level application and management it is noted that in the long term, when the districts have the capacity to make assessments of the impact of abstractions within their district boundaries, they will administer the application and permit procedures. The districts will comment on applications from their areas, organize public hearings and assist in monitoring that the rules governing permits are being followed. Penalties on waste discharge and effluent into open water bodies and river courses will be introduced. Environmental statements, audits and impact assessments in adherence with NEMA guidelines will be required as appropriate.

At operational level, activities with impacts on water quality are regulated through a range of authorizations, which are either being directly managed by the DWD, or in co-operation with NEMA. At the level of urban water supply and sanitation services, NWSC is regulated by contract according to a performance contract with the national government. The Performance Review Committee (PRC) under the MWE reviews the performance of NWSC according to the contract. However, the PRC is partly financed by the NWSC, which may hinder the full independence of the committee³⁹³. NWSC regulates its local branch offices through internal contracts that are monitored by its internal monitoring and regulation department.

Environmental regulation is carried out by the DWD and the National Environment Management Authority. The Directorate of Water Development (DWD) is expected to monitor the quality of drinking water provided by NWSC. However, in practice NWSC monitors its drinking water quality internally without any complementary external monitoring. NWSC's internal Quality Control Department examines whether the supplied water complies with the national standards for drinking water, which in turn follow the World Health Organization guidelines.

In terms of progress reporting, the Golden Indicator No. 5 for drinking water quality is defined as "*compliance with National Standards for Drinking (potable) water 2008*". During the Financial Year 2014/15, 99.2% of the water samples (60,471) from all Areas complied with the National standards for potable water, with regard to bacteriological quality, exceeding the WHO and National standard, of 97% and 95% respectively. On average, the overall compliance of both physio-chemical and bacteriological parameters to the National standards was 98.7%, meeting the annual target of 98%.

The indicator for waste water quality is defined as "*Compliance with all 54 Effluent discharge Parameters*". With regard to waste water, compliance is low. The BOD and TSS compliance to National standards was 40.2%, and 41.9 %, respectively. Out of the 110 towns, 16 towns operate centralized sewerage systems collecting, treating and discharging effluent to the environment.

There are a central laboratory in Kampala and satellite laboratories in the other NWSC operation areas. At several sampling points, water is controlled for pH, colour, turbidity, residue chlorine and E. coli. The results are available at the official NWSC website and mostly comply with the national standards. For Water Supply by NWSC, SPR 2014 reports a total of 8531 for FY 2013/14 treated drinking water samples tested by NWSC for colour, turbidity and total suspended solids and residual chlorine and E.coli. This is down from 9233 in FY 2012/13 and 10422 in FY 2011/12 (see pg 6). The report notes that compliance of treated water improved compared to the previous FY 2012/3 and now stands at: 89.9% for colour (target was 95%); 99.6% for turbidity; and 99.7% for E.coli. It is further noted that compliance to waste water discharge permit improved from 48% to 50%.

In rural areas, according to the rural water quality monitoring work carried out by MWE DWRM, the compliance of rural safe drinking water to national water quality standards was 53% (E.coli being the key indicator). (The target was 95%). Of the different water sources tested the protected springs water was most contaminated while the deep borehole water is reported to have been least contaminated. (SPR 2014 pg 8).

Where NWSC does not provide the service, districts are responsible for water quality monitoring. According to the MWE, this is done insufficiently and data is scarce.

³⁹³ Silver Mugisha and Sanford V. Berg, State-Owned Enterprises: NWSC's Turnaround in Uganda, African Development Review, Vol. 20, No. 2, pp. 305-334. Available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1088139. Viewed on 29 June 2015.

More broadly, and in practice, the following observations are made and some challenges identified as follows:

- Hygiene, the environment, and the water quality of Lake Victoria are all seriously threatened by inadequate sanitation services in Kampala and other towns. On-site sanitation and sewerage is lacking, treatment of effluent is grossly inadequate, and there is considerable urban run-off. On-site sanitation facilities in urban areas are not subsidized, in general do not benefit the poorest members of society.
- According to a study (WSP 2008) on sanitation in Kampala “rampant illegal sanitation practices, lack of regulation and enforcement, and the limited functionality of Bugolobi sewage treatment works have all had a negative impact on Kampala’s environment and caused added pollution to water resources. As a result, NWSC estimates that its water purification costs have tripled over the last three years”. The study recommends the development of a framework of relationships between Kampala City Council, the NWSC, private cesspool emptier operators (through the Private Emptiers’ Association) and consumers under the auspices of the regulators who govern the water and sanitation sector in Uganda.
- As confirmed in the SPR, 2014, that there is widespread practice of sub-standard discharge of effluents which are attributed to the following factors: design inadequacy; operational and maintenance difficulties; storm water ingress into the sewers; disposal/dumping of wastewater from industries and other non-domestic origin water into the NWSC sewerage systems.
- There are *no formal agreements for protection of the water quality by upstream countries and its equitable utilization, which may limit Uganda’s unhindered access and use of water resources within her territorial boundaries.... Potential conflict are developing between upstream and downstream users. Locally upstream riparian may use water in ways, which for instance, make the water quality unsuitable for the downstream users. Examples can be found where sewage is discharged upstream of points where water for human consumption is collected and used untreated, (NWP, pg.3).*
- Trend analysis of bacteriological compliance over the past 5 years shows increasing contamination of rural drinking water sources. Explanations provided for this include poor sanitation around the sources and recommendations made include protecting of improved water sources against induced or later contamination at source and during storage at the household level.
- More efforts are needed in enforcing compliance of various water users to the water resources regulation to protect both quality and quantity of water e.g. most big waste water dischargers e.g. NWSC facilities do not meet the National Standards for wastewater discharge into/onto land or water as detailed in the discharge permits.

To mitigate some of the above-mentioned challenges, NWSC has made a budgetary provision for among others construction of artificial wetlands, modification of operational and maintenance regimes, desludging the ponds, implementation of the Kampala Sanitation Master Plan and sensitization of local and industrialists against illegal dumping of untreated industrial effluents into sewers, treatment plants and wetlands. The Lubigi water treatment Plant was for instance commissioned on 28th March 2014 and of the 219 sewer connections, 89 have been completed and handed over to NWSC, (SPR, 2014, pg. 6). There is no information reviewed during this study to show the impact of these steps on the general water quality or on the social and economic effects.

In addition, it is further noted that the DWRM in collaboration with other relevant organisations/institutions (NEMA, DEA, NWSC, KCCA, UCPC and UMA24) including the private sector, with support from GIZ, has embarked on addressing and controlling pollution of the environment in the greater Kampala area. Through the formation of a Pollution Task Force, increased coordination amongst government agencies in regulating industrial pollution is expected through joint inspections, sensitization and awareness campaigns, enforcement and public-private dialogue.

As a key milestone and way forward, the annual work-plan and a financial budget has been drawn. This work-plan includes the following activities; i) developing an inventory of all industries surrounding and discharging in the Murchison Bay catchment area ii) monitoring pathways / sources of likely environmental contamination by selected industries iii) environmental compliance auditing of industries to practice cleaner production iv) capacity building especially on quick self-monitoring of facility activities) performing regular joint inspections and quarterly meetings to monitor progress, and vi) developing a simple practical tool with key messages for environmental compliance monitoring in various facility processes of the Pollution Task Force.

It is noted in this review that the current status of the MWE Water Resources Management Department (WRMD) does not provide for a high level negotiation position when dealing with other riparian countries. In the Water Resources Management Reform Strategy – 2005-2015 it has been recommended that WRMD is upgraded to a directorate with four departments: Water Allocation and Regulation, Water Resources Assessment and Monitoring, Water Quality Department and Trans-boundary Water Resources Department. This will also imply a higher profile for future water quality management.

For small towns under MWE performance contracts for water supply, MWE Regulatory unit carries out regulation through performance contracts which set out the approved tariffs and services standards required. Monitoring is undertaken through quarterly reports and through revised performance and management contracts to improve service quality.

It is noted that since FY 2013/14 NWSC has also been monitored by the MWE Regulatory unit which reviews the NWSC current performance contract 4A. It's not clear what kind of monitoring of NWSC is actually undertaken by MWE Regulatory Unit aside the review of the contract, for instance if there are there any periodic reviews of the service standards. The SPR 2014 recommends that before the UWASRA is established and functional there is an urgent need to have a proper performance contract management and monitoring of the installed water supply infrastructure (pg13).

The Government as an interim measure has de-concentrated some of the water resources management functions to regionally based water management zones (WMZ) to improve monitoring and compliance. According to the SPR 2014 the WMZ offices are fully established and operational and the demand for their services e.g. laboratory services; water resources technical guidance; and support to local governments, water users and other stakeholders continues to increase (pg8). In particular the SPR 2014 reports that under the WMZs the performance of water resources monitoring; assessment of water quality testing; assessment of water permit applications; compliance monitoring and enforcement of permit conditions etc. are said to have greatly improved. (pg8).

It is clear that the NWP recognizes the fact that sewerage and sanitation service requirements *increase in step with improvements in water supplies and have important health implications* as well as major social, economic impacts in general. The linkages with the positive influence improved water supply and sanitation services can have on investments in other sectors like education and industry are also duly noted in the NWP, a clear understanding of the interlinkages with other ESC rights. The JWESSP (2013-2018) states that inadequate progress has been made on access to safe water coverage mainly due to insufficient financing.

3.8.5. Acceptability

The principle of acceptability requires that water and sanitation services take into account the cultural needs and preferences of users. Therefore, participation is of particular importance to ensure acceptability. **Water must be of an acceptable colour, odour and taste for each personal or domestic use**, as people may otherwise resort to unsafe alternatives.

The **water facility itself must also be acceptable for use, especially with regard to personal hygiene**. The quantity of water facilities alone will not determine the actual usage; in order for facilities to be 'acceptable', facilities must also provide for the privacy and dignity of users.

Sanitation facilities will only be acceptable to users if the design and conditions of use correspond to the preferences of users. Acceptability often requires **privacy**, as well as **separate facilities for women and men in public places, and for girls and boys in schools**. Facilities will need to accommodate common

hygiene practices in specific cultures, such as for anal and genital cleansing. Toilets for women and girls must have facilities for the **disposal of menstrual materials and for menstrual hygiene management**.

Uganda Official Standard for Acceptability

The issue of a national and common standard for acceptability is somehow not as clear-cut as other criteria due to the fact that this concept protects the right of communities to determine what is their own standard of acceptability that authorities should take account of.

With respect to water standard, this principle is nevertheless captured in the US 201 (2008) on drinking (potable) water³⁹⁴ in regards to taste and odour. The standard states that taste and odour should be “acceptable to consumers” and undergo “no abnormal changes” both for class I and class II of category of water, whereas colour standard refers to a requirement of 15 true colour units.

Sanitation standard of acceptability is not set in an official document. In the National Sanitation Policy 1999, reference is made to **technological options being affordable and acceptable**, further noting that the **sanitation system must be acceptable** and adaptable by users and that the users will decide the type amid level of **service** and agree to pay for the use and maintenance of the service. Additionally, acceptability is mentioned with respect to Landowners and landlords expected to facilitate the **provision of sanitary facilities within acceptable distances**.

Implementation of the principle of Acceptability

The fulfilment of acceptability is related to the right to public participation. In that respect, if software activities have been properly implemented during the planning, designing and construction phase of WASH supplies, acceptability should be ensured. In case a supply or service is not accepted by the communities, it is their right to claim for amendment, even though other official standards irrespective of the beneficiaries’ view have been met.

As reviewed in other sections on Availability and Continuous Supply and on Water Quality and Environmental Sustainability, the Uganda WASH sector has set consultation procedures for the various stakeholders benefiting from the construction of a supply. The expectations of beneficiaries regarding a service may however be limited to their financial capacities to contribute to the O&M costs. This is in line with the human rights based approach in relation to the notion of progressive realisation, whereby state may gradually attain the highest standard of WASH services. The threshold related to the notion of acceptability must hence be set with respect to the desired level of services (e.g. expectations of water services piped into premise rather than a collective water point) but with respect to a service that does not offend beneficiaries’ dignity irrespective of the technology being used.

The guidelines for water supply do capture this principle at different stages, stating that negatively perceived water quality is a limiting factor that must be addressed in water demand assessment.³⁹⁵ At the stage of investigations prior to the identification of water sources cultural aspects must be taken into account.³⁹⁶ As regards the principles driving the choice of technology or level of service, the fact that they must be “attractive and culturally acceptable to the users” as well as affordable to them are stated factors among others.³⁹⁷ With respect to siting and verification of the water source, the assessment should encompass water quality, based on the standard guidelines as well as community perception³⁹⁸.

According to the Design Guidelines for Water Supply Infrastructure in Uganda, the acceptance of the exploitation of a water source by various stakeholders (including water service providers and persons potentially affected by the project) should be ensured during the designing process through a feasibility study. In case acceptance is not met, the designer engineer has to search for an alternative water source.³⁹⁹ It should be noted here that the human rights concept of acceptability only applies to communities targeted for the service. Persons affected by a WASH project or any type of projects should be consulted in case the

³⁹⁴ UNBS, US 201 (2008) (English): Drinking (potable) water (2nd Edition): p. 4.

³⁹⁵ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 34.

³⁹⁶ Ibid: p. 55.

³⁹⁷ Ibid: p. 23.

³⁹⁸ MWE (2011), National Framework for Operations and Maintenance of Rural Water Supplies in Uganda: p. 21.

³⁹⁹ MWE (2013), Design Guidelines for Water Supply Infrastructure in Uganda: p. 64.

given project may infringe their HRWS⁴⁰⁰ though this is not captured in the notion of acceptability. Additionally, the guidelines provide the example of a community having cultural objections to use spring water source on the basis of their preference and custom to use river water. The guidelines conclude that these preferences should be observed in the decision making process. Irrespective of the fact that this might be a sound directive for a designer in view of the sustainability of water scheme, it should be highlighted that the state has duties to sensitize communities on water quality issues. Since water quality is another integral component of the HRWS, this example does not capture the notion of acceptability.

The DIM specifies that people with disabilities and their families should be consulted for the construction of facilities since they might be in position to advise on the best options for them. Best solutions should also be collected and shared with other people with disabilities, for instance in the form of pictures.⁴⁰¹

The National Sanitation Policy 1997 expressly captures acceptability under the section on technical considerations which emphasizes the following:

- Sanitation systems must be acceptable and adaptable by users.
- Users will decide the type and level of service and agree to pay for the use and maintenance of the service and
- Sanitation systems should be affordable
- User- education programmes being participatory and empowering
- Designs of facilities giving consideration to the special needs of children, disabled people and the elderly
- Sanitation systems designs reducing environmental impact of unmanaged human waste disposal
- The location and costs of final disposal of effluent and sludge from all sanitation systems will be considered at the stage of technology selection

Acceptability with respect to facilities constructed under self-supply initiatives, including CLTS, might not be relevant as the communities mostly design or choose their own scheme, but the issue lies more on whether these facilities meet the minimum standards of services.

⁴⁰⁰ For example, a significant decrease of yield of their own water supply because of a new project would be an infringement to their HRWS, whereas a construction on their own private property is a legal issue but not human rights related.

⁴⁰¹ MWE (2013), District Implementation Manual Revised: p. 58.

A group of women are seated around a wooden table in a meeting room. In the foreground, a woman in a purple top is seen from the back. To her right, a woman in a red top is looking towards the center. Further right, a woman with glasses is looking down. In the background, another woman in a pink and blue top is looking down. On the table, there are several water bottles and an HP laptop with 'W A U - 918' printed on the lid. The room has a wall with a woven texture.

CHAPTER FOUR
MULTI-STAKEHOLDER CONSULTATIONS - EVIDENCE OF HRWS
IMPLEMENTATION AT NATIONAL AND DISTRICT LEVELS

4. Evidence of HRWS implementation and monitoring at National and District level - A Multi-Stakeholder Analysis

This Chapter provides evidence from the multi-stakeholder analysis undertaken as part of the Uganda Country Mapping of HRWS as a means of verification of the information presented through desk review (in Chapters 1,2 and 3) and offers concrete evidence on planning, implementation and monitoring processes for safe water and sanitation services in Uganda.⁴⁰²

The information is based on key informant and in depth interviews, focus group discussions, and meetings conducted with key stakeholders at the national and local government levels from 5 regions Northern, North Eastern, South Western, Teso sub-region and Eastern in the districts of Kumi, Amuru, Kisoro, Kamuli, and Nakapiripirit, as well as field observations. Key informants included staff from MWE, MoH, MoES, MGLSD, MAAIF, NWSC, Development Partners (DPs), and NGOs/CSOs while at the local government level, focus was on both political leaders and technical officers implementing the water supply and sanitation government programmes. Focus group discussions were held with community water and sanitation management structures as well as water users.

The research evaluated the norms and standards and reported on the existing situation with respect to non-discrimination, access to information, participation, accountability and sustainability. The analysis of the service criteria (accessibility, availability, affordability, quality and acceptability) is presented with the voices from the ground both from service provision and delivery to illustrate the extent that HRWS is being implemented and monitored in practice. Where necessary data from desk review is cross-referenced in order to provide the background to the information presented from the field consultations.

4.1. Accessibility

I. Accessibility to Safe Water Supply

Currently, 36% of the rural population and 27.2 % of urban dwellers are still un-served and use unsafe water. The national safe water coverage for the rural population has stagnated between 64% and 65% for the last five years, with inequities in access varying from district to district. Majority of the water collectors - mainly women and girls - travel long distances and spend more time to collect water, and in some cases collect water from unsafe water sources, with the result that they use less water per capita and suffer from water related diseases (increasing their work-burden of caring for the sick).⁴⁰³ The coverage in 36% (n=40) of districts is below the national coverage despite the sectors policy of “some for all, and not more for some”.⁴⁰⁴

“We have people in some sub-counties, that fetch water for drinking direct from the lake and you really wonder how these people survive. (...), others they have boreholes but with salty water which is not good.” (A key informant in Kumi District)

This notwithstanding, the study findings revealed that the sector has taken steps to accelerate access to safe water for underserved and water stressed areas which include the following:

- The sector has developed solar powered mini-piped water schemes in some rural areas aimed to serve more people, reduce distance and time spent on collecting water – as confirmed by one Technical Services Unit (TSU) staff in the Northern region and an MWE official;
- Review of the allocation formulae for the water and sanitation development grant to the District Local Governments by MWE in 2014;
- MWE is implementing trans-district boundary water supply systems and promoting self-supply initiatives in areas with poor water quality and low ground potential;

⁴⁰² This study was undertaken using the WaterLex HRWS Country Mapping Methodology and guided by a project Steering Committee set up by MWE and constituting MWE, WaterAid Uganda, NAWAD, NWSC and SIWI with backstopping from WaterLex.

⁴⁰³ Ministry of Water & Environment, (2010, 2011, 2012, 2013, 2014) Water and Environment Sector Performance Reports.

⁴⁰⁴ Ministry of Water & Environment, (2014) Water and Environment Sector Performance Report.

- MWE has rehabilitated chronically broken down boreholes in rural areas and this is expected to provide safe water to approximately 300,000 people across the country.
- Small piped water supplies are under construction in four districts and drilling of 88 emergency boreholes in 27 districts was completed in 2013/2014 serving.⁴⁰⁵ The drilled boreholes improved access to safe water to a total of 26,400⁴⁰⁶ rural communities.
- District local governments rehabilitated broken down facilities, drilled deep boreholes, protected springs and provided rainwater harvesting tanks for disadvantaged community members and community groups, (2014 Sector Performance Report);
- In village such as Namojong and Tiang in Kakamongole sub-county in Nakapiripirit district communities were provided with a protected spring, improving safe water access to 400 people;
- Mbarara district supported two women groups in Biharwe and Kasaale Sub- counties with top up funding for construction of rainwater harvesting tanks, thereby improving access to 25 women.⁴⁰⁷

The study established that districts rehabilitate non-functional sources that are beyond the scope of the communities to repair. Such rehabilitation was based on the sector schedules⁴⁰⁸ and assessments done by districts. However, an official from the MWE advocated for increased financing from GOU for rehabilitating non-functional water sources.

In order to improve access at the local level, some communities in Amuru district have put in place waivers to enable orphans, vulnerable children (OVCs) and elderly persons who cannot afford to pay user fees to access safe water.

4.1.1. Distance

The study team received mixed responses to the aspect of distance to water sources. With respect to current distance to boreholes, improvements in proximity to the homes were noted in Nakapiripirit district for example, where one DLG informant reiterated the impact of distance with respect to access by vulnerable groups highlighting that,

“We used to have cases of rape, girls would be raped as they waited in the queue to fetch water or as they came from fetching water, but now it is minimal because as the girls go to fetch water even the mother could be watching her from a distance since many boreholes are near homes.”

This implies that the sources are close to the beneficiaries dwellings. Similarly, Mwihe gravity flow scheme management committee in Kisoro district reported that, *“water is close to the homes from 50 – 500meters.”* Amuru Health centre FGD revealed that water is accessible to everyone and there are no queues. The nearest homestead is 100meters whereas the furthest is 0.5 kilometres from the borehole.

One of the key challenges to reducing distance to water sources identified in some districts relate to the levels of density of settlements in rural areas. Concerns were raised particularly in Amuru and some parts of Kamuli district on the effect the scattered settlements have on provision of water within one kilometre of the dwelling house difficult, resulting in people walking long distances and spending a lot of time collecting water. A key informant in Amuru pointed out that;

“In Amuru, we have vast big villages with scattered population. Therefore, the criterion used for allocating water sources is not meeting the required demand. We need district specific definition of accessibility to assess performance with regard to water provision.”

⁴⁰⁵ Ibid.

⁴⁰⁶ Ibid.

⁴⁰⁷ Ibid.

⁴⁰⁸ Water and Sanitation Sector Schedules (sometimes referred to as the Sector Guidelines), are prepared annually by MWE/DWD. The schedules guide the DLG in the implementation of water and sanitation sector activities. They include references to sector policies and strategies; provide guidance on work plan and reporting requirements; and set sector standards, principles and procedures. The guidelines also include recommendations for the DWSCG allocations. This includes guidelines for allocations to lower LG, water supply facilities, software activities, borehole rehabilitation, sanitation facilities, water quality surveillance, supervision, monitoring and water office overheads.

4.1.2. Topology

Another factor impacting on the distance to water sources in some of the rural areas as identified by one MWE official is the sparse nature of settlements and the big size of villages in Amuru and some parts of Kamuli district which make it difficult to provide bulk water schemes. Other related aspects affecting accessibility is the fact that in some villages, springs are located in valleys and yet communities stay on hill tops thereby compromising the amount of water used by the elderly persons:

“It is not acceptable because we are denying members of the community who cannot carry that water, they will go with five litre jerry can and if it is a dry season, by the time he reaches home, he has half the water because he has been drinking. That is how old men carry actually a three litre jerry can. They drink on the way and by the time they reach home, they have two and a half litres because they have drunk the other on the way.” (KI, MWE).

Clearly, the sector’s effort to progressively target the vulnerable and marginalized, under-served or un-served areas and groups is appreciated, however the present technologies used may not cater for people living in hilly areas, scattered settlements and low ground water potential areas. To address this challenge, one respondent suggested that, *“an alternative technology for water supply needs to be provided for the households on hill tops.”*

The study findings revealed that CSOs have supported marginalized communities to access safe water. For example, the Batwa communities in Kisoro district have received communal rainwater harvesting tanks from Muhabura diocese water and sanitation project, Care International and Grey Organization. It is clear that rainwater harvesting can provide an alternative for improving access in water stressed areas and where other water supply options are not feasible. The feasibility and sustainability of this technology option could however be compromised by the lack of permanent structures in some communities and irregular supply due to seasonality of rainwater. DLGs have been encouraged by the sector to promote individual initiatives of self-supply to augment government efforts.

4.1.3. Access by vulnerable groups

From the consultations undertaken on accessibility for the vulnerable and marginalized areas and groups it was clear that while some considerations are given to groups such as the elderly, the water sources cannot always be targeted for this groups due to varying factors.

i) The elderly

In Amuru district, one district key informant pointed out that,

“In our planning ...we look at the percentage of women among those who have applied; we look at the composition of women, like if they sit in a meeting how many women attended that meeting and agreed that we want water. We don’t go much into the age of the elderly but during the surveying, when we are siting we try as much as possible looking at the elderly, where are they, which home has an elderly so that when a water point is put there, the elderly can have access to it.”

The DWO in Kumi also indicated that they make efforts to reach the needy communities noting:

“we have tried really to reach out to those needy communities where we feel that there is a big problem, those are the ones we are giving the water sources, when we are providing these facilities, we try to go into those needy communities, who cannot really..., who really seem not to have a voice, if I can use that word,”

It is not clear how these exceptions are made in reality given that water supply and in rural districts is largely provided based on a demand- responsive approach.

ii) Public Institutions

Prisons

There are international minimum specifications of 1 tap per 100 detainees, 1 toilet per 25 detainees and 1 handwashing point per 50 detainees that can be used as monitoring and evaluation indicators for the status of WASH in prisons. However, meeting the water and sanitation requirements for prisons in Uganda is far

from reality despite the fact that coverage for water, sanitation and hygiene is supposed to be 100% for prison officers and staff families. A recent assessment of Luzira prison in Kampala revealed that the WASH coverage rate was less than 30% compared to 87% coverage in urban areas (Ministry of Water and Environment, 2015).

The water sources for prisons that were mentioned during the multistakeholder consultations in Kumi and Nakapiripirit were both outside the institution itself; in Kumi District the DWO Kumi noted, that they try to *"...provide them with water sources at least near those places like at the district here we have a borehole just near the prisons, so they normally get their water now from there."*

Similarly this was reported in Nakapiripirit District whereby one of the district boreholes is situated outside the perimeters of the prison and it is used as an alternative when the one inside the prison is non-functional. While efforts of providing water near the prison are appreciated it should also be noted that prison inmates may not access this water as and when they need it because of their restricted movement. Water points should be within prison premises where it can be easily accessed.

Schools

The Government standard for provision of water in school is to have a safe water source within 500 metres of a school. A number of development partners and CSOs have supported provision of WASH in schools e.g. UNICEF has supported a number of schools in the Northern region and Karamoja region to access water in school (including bathrooms and changing rooms for the girl child); WaterAid has supported water provision in schools through Welt Hunger project in Namalu Mixed primary school in Nakapiripirit district; Netherlands foundation has provided modern solar powered WASH facilities with a ramp to Dr Wiggin's primary school in Kumi, where child-friendly facilities have been provided with separate stances and wash rooms for girls.

Despite these notable efforts, there was great concern articulated by majority of the study respondents about the state of access to safe water in schools. According to a Ministry of Education official, there is no specific national budget allocation for WASH in schools, but there is isolated funding for sanitation, especially under the school facility grant that goes towards construction of latrines in selected needy districts.

As pointed out by a MoES key informant, *"According to the school health policy (2009) drinking water should be provided in classroom for pupils and teachers. As the ministry, we still lack water because there are some schools, where the construction of water in the community is not put near the school so the school has to move a distance to access that water, so we have been requesting the ministry of water to at least put that water within the school so that children can access water within the school perimeters but I don't know whether they will work on it."*

This scenario was confirmed by a key informant in Amuru district, when he said that, *"we do not have a budget for WASH in schools."* Similarly, a key informant in Kamuli revealed that,

"due to inadequate resources, we are having a challenge of getting boreholes near to many of our schools. (.....) whereas at the entire district level (... safe water coverage percentage seems to be improving but targeting the schools is still a challenge (...) quite a number of our schools lack safe water."

In Kisoro district, it was noted that despite the education department's efforts to plan for each school to have a rainwater harvesting tank, children have to collect water to be used at home and school and as a result fail to attend classes. According to a key informant in Kumi district, *"Each of the primary schools in Kumi has a water source, apart from one I think. But when we provide them with such water sources, they are not specifically for the schools, but they are for the community around and since the schools are part of the community."*

These finding further illustrate that there is no special targeting for provision of safe water to schools and access to safe water in schools is constrained by poor operation and maintenance practices such as vandalism by nearby communities who are denied access. In Kisoro, challenges of O&M were reported especially when taps break calling for the need for schools to take full ownership of O&M.

Furthermore, it is clear that provision of water services in schools has been left largely in the hands of CSOs. Whereas this is appreciated, the government should prioritize provision of safe water to schools by having specific budgetary allocation. School children are vulnerable and can easily consume unsafe water without considering its safety thereby compromising the principle of quality and safety under the human Rights to water and sanitation.

Refugees

UNICEF has supported the provision of water, hygiene and sanitation to refugee affected areas through construction of piped water schemes, borehole drilling and rehabilitation as well as water trucking in the initial phases of the emergencies in Adjumani, Hoima, Kiryandongo and Kabarole districts (SPR 2014.) This has enabled such communities to access safe and clean water thereby living a dignified life.

Main challenges affecting accessibility in rural districts

Most of the challenges identified that affect access to safe water were mainly governance related and included: political interference, weak capacities for monitoring, delayed procurement, poor materials for works among others.

Political interference in the allocation of new water sources was cited by some district officials as one of the factors that affects equity between sub-counties and villages. While there are deliberate efforts by the MWE to target un-served areas, in practice there seems to be challenges at the DLGs with respect to political interferences on allocation and location of water sources. A key informant at MWE stated that;

“What we are doing is when you are giving us the work plan, we actually want you to tell us where the facilities are going and you will use our coordinates because now we have our coordinate system whereby every source is marked and we will look at that one and we see that are we providing a source where there is need or not. In that case we verify if it has worked. But it has not worked hundred percent because what they do towards the end, some of them they change even if we approve a different work plan, they look for a source but they move it to nearer a powerful person.”

This point was reinforced by a key informant at the MWE who stated that, one of the challenges with implementing and realizing equity was that “ ... the more vocal and active the leaders, the more they will pull the resources to their side themselves so you find the leaders who have weaker representatives, tend to lose out and that is why they are saying no, this cannot continue. We could be having problems with politicians going and making pronouncements that water is free. One there is no free water and water is not free and there is a cost associated.”

Lack adequate capacities in the districts for monitoring as highlighted by key informant at MWE who noted:

“We are very few so we cannot monitor all the utilities. We have over eight hundred and sixty systems utilities and we have a staff of about ten people so monitoring each and every utility to ensure that they meet compliance is difficult. So you find that because of that lack of effective monitoring, the utilities because treating water has a cost component, so if the utility can cut corners they don’t put adequate chemicals, then they will make some savings but the consumer will be suffering because the water will not be of the right quality. So he recommended increased staffing to the department.”

A TSU official from the Eastern region, reiterated the above stating that,

“Some districts do not have the right personnel/staff in the DWO offices. People keep offices while studying which leads to challenges in implementing the WASH activities.”

Non-functionality due to poor construction materials - The materials on the market for boreholes are very expensive and of low quality. The water quality is affected since it turns brown. Uganda National Bureau of Standards (UNBS) is aware of the problem, but no action has been taken yet. This leads to wastage of resources and people do not get access to water as required, (ULGFC).

Delayed procurement – A key informant in Nakapiripirit, stated that, *“The procurement of works is delayed and the systems are delayed. Like last year I was signing agreements in June when the financial year was ending, how fast will you utilize the money?”* This challenge was also raised by one key informant at the MWE when he said that, *“The procurement system is not very efficient, it delays and the service delayed is definitely violating somebody’s rights because within the limited resources, we should be able to do deliver in time.”*

Weak co-ordination among stakeholders in sharing information was cited as a factor that leads to duplication of activities as was the case when Japan International Cooperation Agency (JICA) and World Vision provided boreholes to the same school in Amuru district.

Willingness versus Ability to pay for O and M: A Focus group for Mwihe gravity flow scheme stated that, *“Some people stubbornly refuse to pay, but they targeted during the harvest season and they pay.”* This was reported in all the other study districts.

Drying of water sources was reported in some districts such as Kisoro district where eucalyptus trees near the source are reducing the water yield. In addition to that, pipes are cut during cultivation, though they were properly marked. The focus group of Mwihe reported that, *“Water at the source (spring) disappears sometimes. The collection chamber is*

leaking. We use clay to repair it. We will report the case to the water office. The tank needs to be reconstructed. O & M was a big challenge because people were used to free dirty water, but now with sensitization, people are used to paying.”

In urban districts, approximately 27.2% of urban dwellers still use unsafe water. This is partly attributed to the following factors; rationing of water supplies, dry zones due to the hilly terrain and an aged pipe infrastructure especially in Kampala, infrastructure limitations, human and climate change factors especially in western towns of Kasese and Mbarara and intermittent power supply.⁴⁰⁹ Although the transfer of water schemes from private operators to NWSC has increased access to piped water in some small towns, there is need for clear transition modalities to avoid potential conflicts as was reported in Kamuli. Through the WSDFs, communities in 20 new towns⁴¹⁰ have been connected to piped water.

The creation of Umbrella Organizations has enhanced the capacity of scheme operators to manage the schemes. However, the future of Umbrella Organizations’ operations with regard to staffing, funding and sustainability needs to be critically analysed if they are to continue to deliver on their mandate. Pre-paid meters and public stand posts with a subsidized tariff have been installed in the informal settlements to improve access to safe water for the urban poor. Key informants however, raised concern about the current tariff structure and recommended that government needs to review the tariff to promote access. A MWE official stated that,

“...water must be affordable so that it can be accessed by everybody, but we also know that there is a cost related to supply by the time you bring water from the source to the consumer, there are certain costs which must be made by somebody.”

Consultations with the MWE and WSDF officials revealed various challenges that affect access to urban water supplies, namely;

- The **insufficient level of GOU/DP investment** to the sector vis-à-vis the population growth rates and sector goals/targets;
- **High water production costs** leading to high tariffs. One key informant stated that, *“now on part of National Water the issue of affordability our tariffs are set because of the rising productions in terms of chemical consumption now this one we may not look at Kisoro as an area but especially in Kampala where pollution is very high we find that the production is very, very high. Water treatment consumes all the money we collect from clients so it’s supposed to be in the national plan sensitization to protect our water sources first of all we have to protect our water sources to ensure that they are not contaminated, they are safe, secondly we have to sensitize people on how to not waste water or use what you are supposed to use not to use it extravagantly so that you don’t incur in loses or expenses so all in this issue we need to sensitize because it’s our main important aspect.”*
- **Poor quality materials** which lead to constant breakdown of pumps. Concerns were raised about the lack of standards, the human resource and equipment to verify the quality of materials entering the Ugandan market. The MWE regulation department is relatively new and constrained by inadequate staff with limited skills.
- **Unplanned settlements and land ownership** challenges make it difficult to provide safe water to the people living in informal settlements. For example, in Kumi district, land ownership challenges almost derailed a water project. One district informant, stated that, *“So we met some bit of resistance ... from the land owner ... that can’t the government give some compensation in order to put their house here and the pumping station,... so this man started to demand 80 million, so we went to talk to him until we recently agreed with him, ...to give you 2 plots of land from government land, within the sub county and he accepted and 3million.”*

Note: By the time of the study, compensation for the land in question was still being addressed.

⁴⁰⁹ Ibid.

⁴¹⁰ Ibid.

II. Accessibility to Sanitation and Hygiene

4.1.4. Rural sanitation and Hygiene

Household latrine coverage for the rural population has improved from 70%⁴¹¹ in 2009/10 to 74.6%⁴¹² in 2013/14. Despite the high national average, district performance data for 2014 highlights a critical situation in Nakapiripirit district (5%⁴¹³) and other districts in the northern region. As a result, communities resort to open defecation which exposes them to disease outbreaks. Rural access to hand washing facilities at the toilet was reported to be 32.7%⁴¹⁴. Latrine coverage in the initial 15 districts under the Uganda Sanitation Fund programme is 89.3%⁴¹⁵.

Through the District Sanitation Grant, district local governments are implementing community led total sanitation and home improvement campaigns aimed to promote good sanitation and change people's attitudes and behaviours towards improving best hygiene practices. In an effort to strengthen the supply chain for improved sanitation, the sector has trained sanitation entrepreneurs in cheap, durable toilet options and better pricing to enable better access for the rural poor. Similarly, the sector is exploring mechanisms that will enable rural communities to access financing for household sanitation improvement.

The key challenges to rural household sanitation improvement cited by the district level stakeholders include; inadequate sanitation funding to DLGs; limited technology options for areas with collapsing soils, rocky and water logged areas; poor sanitation supply chain; lack of district prioritization of sanitation and hygiene programs; reluctance of communities and negative attitude towards behaviour change; and lack of transport for extension staff to undertake supervisory and support roles.

4.1.5. Access to Urban Sanitation and Hygiene

According to the 2014 sector performance report, access to sanitation for the urban population is 84% (excluding Kampala). Over 90%⁴¹⁶ of the urban people use on-site sanitation and 6.4%⁴¹⁷ of the Kampala residents are connected to a sewer line. The low sewer connection rate is attributed to the limited sewerage network coverage given the high investment costs involved⁴¹⁸. All poor people use on-site (latrines or septic tanks) sanitation or have no access to improved sanitation, thereby generating sludge without transport and treatment system.

In order to raise household sanitation coverage in small towns and rural growth centres, in 2013/14 financial year, the MWE through the WSDF and centrally implemented projects, carried out hygiene and sanitation campaigns, constructed ECOSAN [ecological sanitation] demonstration toilets in selected households and trained latrine masons⁴¹⁹. Similarly, Kisoro, DLGs are implementing on-site sanitation and ECOSAN toilets in public places such as rural growth centres and markets where five stance latrines with provision of a ramp and a stance for PWDs have been constructed especially at markets in RGCs. Access to hand washing facilities in urban areas (excluding Kampala) stands at 35%⁴²⁰.

Civil Society Organisations have also made a number of innovations aimed at improving sanitation in urban and peri-urban areas. Water for People trains on use of gulpers (pit-emptying mechanical emptying technology) and facilitate the sale of sanitation products and have established a decentralized faecal sludge dumping site as an alternative to the NWSC faecal sludge site. This innovation could be replicated in other informal settlements with inaccessible toilet infrastructure.

In Kampala, about 90% of the people rely on on-site sanitation solutions, which cannot be considered "improved" or "acceptable" in most cases: too many households share one toilet, leading to unhygienic

⁴¹¹ Ministry of Water & Environment, (2010) Water and Environment Sector Performance Report.

⁴¹² Ministry of Water & Environment, (2014) Water and Environment Sector Performance Report.

⁴¹³ Ibid.

⁴¹⁴ Ibid.

⁴¹⁵ Ibid.

⁴¹⁶ Ibid.

⁴¹⁷ Ibid.

⁴¹⁸ Ibid.

⁴¹⁹ Ibid.

⁴²⁰ Ibid.

conditions with about 7% still without access to private or public sanitation facilities. In poor urban areas and informal settlements, access to sanitation is inadequate and collection, transportation as well as treatment of faecal sludge remain a great challenge. It is estimated that 900m³ of faecal sludge is generated in Kampala every day, whereas only 390m³ are collected, representing a collection rate of 43%⁴²¹.

Access to the toilets for emptying vehicles (vacuum tankers) is a challenge particularly in urban unplanned and congested areas and often not possible. For such cases where vacuum tankers cannot access or are not affordable to the households, manual emptying is being practised, exposing workers and households to high health risks due to the direct contact with faecal matter.

Furthermore, there is a weak legal and institutional framework. For instance, there is weak regulation of faecal sludge collection and transport and for infrastructural planning which impacts on the provision of sufficient sanitary services. Although there is a National Sanitation Guidelines 2000 in place, it does not offer the standards and guidelines necessary for regulating the private service providers currently providing collection and transport services for on-site sanitation facilities for households and the community. These providers currently operate in an environment that is informal and unregulated with the result that sanitation is hugely unaffordable due to high price variations and unsatisfactory service delivery standards (response time, quality and completeness of service, appropriate discharging and treatment).

4.1.6. School Sanitation

The pupil to latrine stance ratio stands at 70:1⁴²² against a national target of 50:1.⁴²³ Study findings revealed that the pupil to latrine stance ratio is as high as 74:1 in Kamuli district as confirmed “... *during break if you look critically, you will see 74 pupils lining for one stance latrine.*” (Key informant, Kamuli District). This leads to long queues at latrines during breaks and makes it difficult to maintain the latrines clean.

Under the school Facility Grant, established by GOU in 1998 following the introduction of Universal Primary Education, needy district local governments are required to provide 5 stance latrines to government aided primary schools. In 2013/14, Lira district constructed 2 VIP toilets in two primary schools in Ogul and Aromo sub-counties thereby improving access to sanitation for 1734 pupils. (Source SPR 2014). In Kisoro, the district relies on the School Facility Grant (SGF), Local Government Development Fund (LGDF) and support from NGOs which has resulted in the provision of sanitation facilities for the vulnerable groups. For instance, separate stances have been provided for boys and girls, though the budget is not always sufficient. The children with disabilities have been provided with one stance with a ramp.

The MoES reported that the Netherlands Embassy supports provision of hand washing facilities and rainwater harvesting tanks to all schools in northern Uganda. Under PRDP and NUSAF hand washing facilities and water tanks are provided to schools. In Amuru district, the DWO reported that except where it is not technically feasible, under the DWSCG, schools are prioritized while constructing water sources - “*We give them high priority... That is schools and health centres, first priority, give water to them. So all most all of them have water*”.

Despite various sanitation interventions in schools by sector partners, further analysis revealed a declining trend in access to school sanitation in the last five years from 54:1 in 2009/10⁴²⁴ to 70:1 in 2013/14⁴²⁵. Whereas access to adequate sanitation is known to contribute to school attendance especially for adolescent girls, most of the schools lack separate stances for boys, girls and wash rooms for adolescent girls.

The key challenges affecting access to sanitation in schools include;

- **Inadequate budget.** In Amuru district, a key informant complained that,

⁴²¹ Source: Government of Uganda and KCCA supported by Bill & Melinda Gates Foundation and DFID (2014): Analytical Report – Improving Faecal Sludge Management (FSM) for On-Site Sanitation in Kampala City, Uganda.

⁴²² Ibid.

⁴²³ Ibid.

⁴²⁴ Ministry of Water & Environment, (2010) Water and Environment Sector Performance Report.

⁴²⁵ Ministry of Water & Environment, (2014) Water and Environment Sector Performance Report.

“We only have a small budget for inspection and monitoring of WASH. We are doing badly off when it comes to the required stance ratio of 1:40 primary pupils and 1:20 pre-primary pupils. Training on hygiene and sanitation in schools is mostly supported by UNICEF.”

- **Poor operation and maintenance of facilities** - The filling up of latrines such as in Amuru. A key informant complained that,

“Sanitation is still a problem and now we are thinking of having drainable latrines since the pit latrines fill up so fast. The challenge is we have no budget for cess pool emptier.”

A similar complaint was mentioned in Nakapiripirit. A key informant stated that,

“Then for our schools, we support them we built for them VIP toilets. But when those toilets fill up it is hard to empty filling up very fast”

A key informant in Kamuli district stated that,

“You know a child who is used to go in a clean latrine and then he goes to the dirty one he says to hell with the latrines, for the schools which have dirty latrines at night the children go behind the latrines instead.”

On political interference – A key informant reported that,

“When we talked of constructing latrines our chairperson never saw it as a positive thing and she de-campaigned it seriously. So I pulled away from the construction of latrines in schools. She said “no we need classrooms how can you say we construct latrines for what?”

In relation to the above challenge, a Ministry of Education official argued that while the schools provide VIP toilets, there is need to provide cess pool emptiers to remove the faecal matter from school toilets that fill up very fast. She said that when you enter the filled up toilets the gas that comes out inhibits proper usage.

Washing hands after using the toilet in primary schools stands at 38% against a target of 45%.⁴²⁶ Some of the schools in Kamuli district with hand washing facilities lacked water in them. According to a key informant in Kamuli district,

“The issue of hand washing is still low whereas some schools have hand washing facilities when you go to check you find some of them when they don’t have water whereas they can, but there is no water.”

In Nakapiripirit district a key informant stated that;

“We had a number of utensils for hand washing facilities but only one is functional. The rest are not.”

On the other hand, in Kumi district, the study team observed that hand washing facilities installed with taps on each of the VIP latrine blocks were in place.

In an effort to improve access to sanitation for the disadvantaged and vulnerable groups, WaterAid Uganda in collaboration with the MWE, ATC, MoES and MGLSD developed a practical guide for inclusive designs for water, sanitation and hygiene facilities for PWDs at household and community level⁴²⁷. Likewise, the MWE constructs public sanitation facilities installed with access ramps for wheel chairs; wide doors to ease entry and supporting railings inside the sanitation facilities to enable users with disability to easily access them. In addition, sanitation facilities were constructed for demonstration purposes for 90 poor households.⁴²⁸ Some districts such as Amuru have made it mandatory to make provision for a ramp and a stance for children with disability. All these provisions point to efforts made by GOU and NGOs/CSOs towards non-discrimination in the provision of sanitation services.

Civil Society Organisations (e.g. World Vision Uganda, WaterAid Uganda, Wera Development Agency WEDA and COU-Teso Diocese Development Organisation TEDDO,) have designed pro-poor targeted projects such

⁴²⁶ Ibid.

⁴²⁷ Appropriate Technology centre (2015), National Equity and Inclusion Dialogue workshop report.

⁴²⁸ Ministry of Water & Environment, (2014) Sector Performance Report.

as designing modifications for WASH facilities and assistive devices for PWDs, elderly persons, pregnant women and the terminally ill⁴²⁹. Such facilities include boreholes with access ramps, wider entrances and circulation space around the hand pump; household latrine design options including seats (static and/or movable), hand rails and access ramps. CSOs have also constructed sanitation and hygiene facilities at schools with separate stances for boys, girls, male and female teachers and pupils with disabilities.

4.1.7. Sanitation in Health Centres and Prisons

Consultations with district stakeholders revealed that access to sanitation services in prisons and health centres is inadequate due to inadequate funding and unclear implementation guidelines. For example, Namalu farm prison in Nakapiripirit district with a population of four hundred inmates has four stances used during day and two flush toilets used during the night. Study findings revealed that UNICEF works with DLGs to provide water at health centres to cater for mothers and school WASH. They also support school sanitation clubs and patrons to deliver hygiene messages, ensure O&M of latrines and provide bath rooms and changing rooms for the girl child. In Kungedi Health Centre in Amuru district, due to poor workmanship, usage of the latrine had been suspended thereby denying the patients access. However, there was no sign indicating that the latrine was out of bounds.

4.1.8. Solid Waste Management

Management of solid waste is the responsibility of town councils in small towns and KCCA in Kampala. Consultations with key informants revealed that management of solid waste and drainage is still poor and it is characterised by indiscriminate litter in the densely populated small towns (e.g. in Kisoro) and peri-urban areas. Such poor sanitation practices lead to disease outbreaks and contamination of water bodies. Consultations with key informants in Kampala and Nakawa Division officials cited political interference in the enforcement of the Solid Waste Management Act, inadequate transport vis-à-vis the quantity of garbage generated in the city; dumping of garbage at illegal sites, reluctance of people to self-load garbage on trucks as key factors affecting proper management of solid waste in urban centres including Kampala.

According to CIDI,

“Solid waste management is another big challenge because the system is not well defined. KCCA used to collect the garbage for free, but the system is changing to Private Operators (POs) who have started collecting garbage in upscale areas. They only collect about 60% and the 40% of garbage finds its way in the drainage channels or remains in the community and accumulates.”

CIDI recommended that, KCCA should enforce the Solid Waste Ordinance and sensitise communities on the process of collecting garbage and the tariff.

The study found out that interventions in order to address these challenges that are in the offing include; strategy of garbage collection through a consortium of private companies whereby landlords will pay a fee for garbage collection on behalf of their tenants. However, the communities were not consulted on determining the garbage collection fee and this might lead to resistance.

In Amuru town council, enforcement of garbage pits in homes and locally made garbage pits are promoted in markets. However, the team noted that the district practice of burning of rubbish which is not bio-degradable is a bad practice.

III. Recommendations

1. There is need to increase funding for sanitation programs. Other departments such as health and education should honour their pledge to put money on to the sanitation budget line;
2. The Ministry of Health should review the fines in the Public Health Act to make them punitive. The Public Health Act should be enforced for adamant households;
3. The sector should train latrine masons and pit excavators in marketing skills to enable them link up with the sanitation market;

⁴²⁹ Appropriate Technology centre (2015), National Equity and Inclusion Dialogue workshop report.

4. GOU should provide transport facilities to extension staff to facilitate regular and continuous mobilization and follow up support to communities to improve their hygiene and sanitation practices;
5. Ecological sanitation toilets should be promoted as the feasible option for areas with collapsing and rocky soils. Communities should be adequately sensitised on proper usage and management.

Access to sanitation services realistically should not be partially available but whole. And effects of poor sanitation in public places burden numbers without discrimination. Poor sanitation services lead to low self-esteem, lack of human dignity, lack of privacy and open defecation, disease and in the long run it becomes costly and leads to death. Whether it is a small percentage of the population, either living in urban or rural areas, in prison or in schools, children or the elderly, women or girls; all are human beings that deserve access to good, user friendly and affordable sanitation services.

4.2. Availability and Sustainability

Explanation of the availability component is based on Uganda's international commitments, as explained in the second Chapter. According to UWASNET, the minimum water requirement to be available per person per day is 20 Litres and 50 - 100 litres are also needed to ensure most basic needs.

4.2.1. Availability of Rural Water Supply

To ensure sufficient water, each person has the right to adequate and continuous water supply for personal and domestic use.⁴³⁰ Whereas efforts have been made to avail water to the citizens of Uganda, 36% of the population is still under-served and un-served. This percentage requires water for "drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene".⁴³¹

The National Water Policy (1999) promotes community based maintenance system (CBMS) through a 3-tier⁴³² system as the approach to ensure sustainable management and O&M of water facilities.

The sector indicator for measuring functionality of the CBMS are functionality of water sources, functionality of WSCs and the inclusion of women in O&M of rural water facilities. According to the 2014 sector report, 85% of the sources were functional at the time of spot check, functionality of WSCs has stagnated within 70% – 72% for the last five years and 83% had Women on management committees.

Whereas the sector promotes the community based maintenance system as the approach for ensuring sustainable water services for rural communities, the 2014 MWE study on the effectiveness of the CBMS underlined its limitations in its current form and made a number of recommendations for strengthening it.

The HRWS study findings revealed that in all the study districts, poor operation and maintenance of facilities was a key factor affecting availability of water. In Amuru district for example non functionality of some of the water sources, makes it difficult for water to be available for some persons and households. Other revealed factors that affect availability of water included;

Voluntary nature of WSCs - The study findings revealed that due to fatigue caretakers and water user committee members get tired, and fall out or become inactive because it is a long term service with no remuneration and no specific term limit.

Willingness and ability of users to pay for O&M - Communities are reluctant to take up their O&M responsibilities and in most cases do not contribute towards maintenance of installed water facilities. Only 69% communities made contributions (SPR 2014). Due to lack of banking facilities, misuse of funds by WSC members and to non-functionality or weak WUCs, the collection of funds for O&M remains a challenge even where people would otherwise be willing and able to pay. On the other hand community members lack a strong sense of ownership. They still believe that maintenance of water sources should be the responsibility of government. This negatively affects the operation and maintenance of the water and

⁴³⁰ African Charter guidelines, para 88-89.

⁴³¹ General Comment No. 15, para 12(a); African Charter guidelines, para 89.

⁴³² Under the 3-tier system the community structure constitute the first tier, the private sector tier and the government back-up support systems the third tier.

sanitation facilities. In order to address this problem, Triple S and SNV are piloting the engagement of water boards for O & M in addition to facilitating the constitution of WUCs in some sub counties. The Bolicap approach which is a village money saving scheme for O & M is being piloted.

Functionality of hand pump mechanics is sometimes affected by poor co-ordination between the HPM and sub-county staff which disrupts storage for tools and delays access tools from the Sub-county thereby leading to delays in response to community calls. HPMs also have a challenge of accessing communities in far off areas and yet payment for services rendered depends on the good will of the community since there is no set fee for the repairs. Also the Hand pump mechanics are few to serve the entire sub county and they are over engaged.

In many communities, the Water sources take long to be repaired due to poor co-ordination between the WUCs and community. Spare parts are not readily and if readily available communities cannot afford to pay due to very low and poor contributions for O & M. The men FGD for Kungedi Health Centre in Amuru district stated that, *“The SC has no spare parts.”*

At District level, study respondents complained about the inadequate facilitation in terms of transport and finances for supporting operation and maintenance at community level such as reactivating non-functional WSCs and assessing non-functional water sources. In Kamuli, a district key informant mentioned *“that transport and facilitation of allowances were a major challenge for the staff.”* The same challenge was mentioned by all the districts visited.

Other factors affecting availability of rural water include water quality and drying up of water sources.

Another important element of availability is priority in the allocation of water, which must be given to the right to water for personal and domestic uses.⁴³³ Kungedi FDG women reported that,

“And when I am preparing local brews, I need twelve jerry cans but when I am not and I need for the normal home use, only three jerry cans is enough a day and this one almost twelve to thirteen when there is washing of clothes and other things. Seven jerry cans because the family is big the members are many. So in that family, she may need seven jerry cans a day of twenty litres, six jerry cans a day but when the guys are there she may need nine. When the children are in school she needs ten jerry cans because children need to wash their clothes frequently but when the children are back in the holidays, she may need only seven.”

4.2.2. Availability of urban water services

Rationing of water due to inadequacy was reported in some districts for example Kisoro by NWSC, In Kumi district, the private operator stated that,

“During the rainy season, it is supplied every day, but during a dry spell, water is supplied after every other day and this one also at times is affected by power, if power is not stable, we can skip and give after two days, but when it is all stable, still we give according to that, every day when there are rains, and every other day during dry seasons.”

The South Western Umbrella complained that POs do not service the generators on time and this leads to burning of motors and pumps. In Kisoro, stability of electricity supply was noted to be a challenge which affects availability of water supply, etc.

Umbrella Organisations for Northern and Mid-Western Uganda have embraced the concept of SWSSBs and are providing direct technical support to the Boards. The water boards are also supported by some CSOs in O & M as indicated by Welt Hunger,

“We support the water boards by training water board committees and water operators and then after we hand them the scheme to manage under our watch. They now have now have a water piped scheme only that it is not yet fully functional but everything is set”

⁴³³ General Comment No. 15, para 6; see also ACHPR, Resolution 2015, ACHPR/Res.300 (EXT.OS/XVII). Available at: <http://www.achpr.org/sessions/17th-eo/resolutions/300/>.

The study in Kisoro indicated that the cost of water during the dry season can rise up to UGX 1000 (approximately USD 0.3) which is not easily affordable by the population. The people are forced to travel long distances to look for alternative water sources and ration water or opt for other alternatives such as roasting of food for a meal instead of cooking.

"...lets go and we visit these people and see how they cook, we went there we demonstrated and found that Batwa never had water, so we trekked with our video coverage and mind you where we got water, is where they got the name Kigezi, it's a swampy area where squeezing water is a problem unless it has rained, so we demonstrated that and we took water to the Batwa community... At times we go to work for the none Batwa for the whole day we come back they have given us food and we reach home there is no water so what we do we get fire, we roast our Irish potatoes, we eat and sleep without even bathing or cooking , because there is no water."

The sector in partnership with NGOs/CSOs such as IRC/Triple S, SNV has supported and implemented innovative approaches for strengthening the O&M of rural water facilities and ultimately improves availability and sustainability of safe water. These approaches include, formation of Hand-pump Mechanics Associations (HPMAs), Sub-county Water Supply and Sanitation Boards (SWSSB), the Mobile Phone for Water (M4W) and community saving schemes for O&M of rural water supply.⁴³⁴

In order to improve sustainability Hand pump mechanics were trained at sub county level in all study districts.

4.2.3. Availability and Sustainability of sanitation facilities

According to UWASNET, sanitation facilities should be available within or in the immediate vicinity of a household, education institutions, workplaces and public places. Safe disposal of solid waste matter, waste water, and other waste products should be available within 24 hours. The MWE sector is mandated to provide sanitation facilities in public places including markets and rural growth centres (RGCs). The MOH official and a key informant in Kamuli district however observed that people in transit do not have available sanitation facilities thereby leading to open defecation.

Consultations with district key informants revealed that attempts have been made to make water available to the communities. However, some technology options such as rain water harvesting are affected by seasonality of the year especially during the dry season. The changing water table due to fluctuations in the rain patterns affects availability of underground water which in the long run affects sustainability of water resources.

Despite the government's deliberate effort to improve and increase access to water and sanitation services, availability and sustainability is still a very big check towards these efforts. This questions the realisation of the implementation and monitoring of human rights to water and sanitation knowing that water is life, and that when water is not available life is at stake. Availability of water should be continuous and sustainable because having no water continuously for days or a week erases having had water continuously for a month. The rationing of water and operation and maintenance challenges among others make availability of water a dream than a reality. Lack of water at any one time makes the affected population vulnerable to high charges of vendors, consuming un-safe water, disease and or even going without water.

Whereas government has a responsibility to provide water and sanitation services, the population equally has an obligation to ensure sustainability of water and sanitation facilities. This implies that human rights go hand in hand with obligations and responsibilities. However, the study reveals that access to information about the responsibilities and obligations of water and sanitation providers and beneficiaries still needs to be popularised.

⁴³⁴ Water and Environment Sector Performance Report 2014.

4.3. Affordability

4.3.1. Affordability of rural water supplies

Specific strategies have been introduced by MWE and adopted by DLGs to reach the rural poor and economically disadvantaged, particularly the use of low-cost and appropriate technology, and community participation in all phases of the project cycle.⁴³⁵ The DIM (2013) states that, “communities should make an informed decision on the type of technology that they would like based on suitability and cost and maintenance requirements. This is not only critical to ensure affordability to pay for the installation and later on the maintenance of the water source/facility but also to ensure sustainability of the water source.”

The study revealed that in Kisoro, the cost of water during the dry season can rise up to (1000 UGX) per jerry can which is not easily affordable by the population. As a result, the people are forced to travel long distances to look for alternative water sources. In Kamwenge district, Water for People (WfP) has introduced the Pay as you fetch - Business kiosks to which the PWDs /vulnerable people access water, but also run some water business. In most rural areas, cost recovery goals are significant, but also more limited. They take the form of upfront contributions to construction costs and community responsibility for operation and maintenance through the Community Based Maintenance System-CBMS.⁴³⁶ Private hand-pump mechanics and scheme attendants provide maintenance services to water users in rural and peri-urban areas. Private operators manage piped water services in small towns and rural growth centres.⁴³⁷ The users are expected to meet the costs of repair and replacement of worn out parts; labour costs of O&M, the cost of administration and logistics e.g., stationary, as well as public transport for the technicians.⁴³⁸

4.3.2. Affordability of urban water supplies

The National Water policy (1999) introduced cost recovery measures for both rural and urban areas. More traction is expected in large towns; where in principal users should pay the full costs of investment, operations, and maintenance of piped water schemes through tariffs.⁴³⁹ In areas served by NWSC, the tariffs are predetermined taking into consideration the cost of production. LGs, in consultation with MWE, appoint and manage POs for all piped water schemes that are outside the jurisdiction of NWSC.⁴⁴⁰ With the declining financial support to capital costs in already existing small towns, it is of great importance that the customers pay a cost recovery tariff that is reviewed and approved regularly through a clear and participatory process. The current tariff set up does not allow cost recovery in most cases and the management contracts limit capital investment by the Private Operators. This affects the quality of service by the private Operators.⁴⁴¹ In Kamuli town NWSC recently took over the operations from a PO. However, NWSC was facing enormous challenge to maintain the water supply system as explained by one senior staff partly due to limited proceeds from the water collection. The available funds were not enough to support new connections, since the conditional grant was removed. All old meters were being removed to reduce on the water loses and only 40 new water meters had been installed 2014/15.

In Kamuli, the study established that plumbers offered fake receipts to consumers which led to abandonment of piped water due to non-affordability. For small towns where POs are still managing schemes, regular and close monitoring of their operations needs to be strengthened to avoid similar cases. A senior official from MWE noted that such a scenario demonstrates capacity gaps that exist with the POs which could be addressed.

The Pay- As-You-Fetch initiative by Water for People in Kamwenge district and the pro-poor unit in Kisenyi in Kampala city will protect those fetching water from the public stand posts from paying high fees that translate into a big expense in the long run. Its feasibility however is subject to the availability and

⁴³⁵ WSP (2015) Water and Sanitation for the Poor and Bottom 40% in Uganda: A Review of Strategy and Practice Since 2006.

⁴³⁶ WSP (2015) Water and Sanitation for the Poor and Bottom 40% in Uganda: A Review of Strategy and Practice Since 2006.

⁴³⁷ Ibid.

⁴³⁸ MWE (2013) District Implementation Manual – Revised.

⁴³⁹ MWE (1999), National Water Policy 1999.

⁴⁴⁰ Ibid.

⁴⁴¹ MWE (2014) Sector Performance report, p.54.

sustainability of a safe water source. Otherwise, as an alternative the beneficiaries will be to use unsafe water that they can easily afford.

Availing inclusive and affordable alternatives of safe water and sanitation supplies whether privately or publicly provided, would be an effective strategy for empowering the poor and vulnerable groups of the available options to choose from towards safe access safe water and sanitation services.

4.4. Safety/Quality

4.4.1. Quality of rural water facilities

The study findings show that district local governments test the quality of water for all new water sources. They also conduct quarterly monitoring and surveillance of existing water points which are suspected to be contaminated. Water School Uganda in Kisoro, tests the quality of water and encourages communities to treat their drinking water using solar disinfection and if there is no sunshine they encourage them to boil the water. This approach may not be sustainable because it is the project that provides the shells and tables.

During such visits communities provide feedback to the district staff on the quality of water from the facilities constructed. The Water Management Zones also support district local government to carry out water quality testing. Similarly, Water and Sanitation Umbrella organisations carry out water quality monitoring and assessment of piped schemes in the centres under their jurisdiction and provide feedback to member schemes on the status of water quality. They also sensitise communities in water catchments on best practices for protecting the catchment.

Consultations with CSOs revealed that they test the quality of water and provide rural households with water filters at a subsidised price. According to the 2014 sector performance report, Joint Effort to Save the Environment (JESE), Plan Uganda and Concern Worldwide provide feedback to communities on the quality of water. In an effort to address the problems associated with corrosion, Living Water International Uganda and the Appropriate Technology Centre (ATC) of the MWE have piloted the iron removal technology with successful results. Other CSOs such as Muhabura diocese in Kisoro promote the use of solar water disinfection (SODIS) and encourage communities to boil water for drinking. Concerns were however raised in Kisoro about the amount of sunshine required to effectively kill the pathogens in the water in view of inadequate sunshine in Kisoro district.

Despite the above mentioned efforts, compliance of rural safe drinking water sources to national water quality standards is 53%⁴⁴² against a sector target of 95%⁴⁴³ (E.coli being the key indicator). This was attributed to poor sanitation around the sources. This implies that 47% of rural communities are still using unsafe water, which could result in water related diseases. A respondent in Nakapiripirit district,

“Our water is not safe but we don’t have chemicals for treating the water yet our children drink that water not boiled.”

Despite the fact that water could be safe at the water source, maintenance of the safe chain was noted to be poor affecting the safety of water. For example, in Amuru district concerns were reported about communities carrying water in open containers and putting leaves which could affect the quality of water. In addition, dirty containers were being used to fetch water. To address the above outlined challenges, some good practices were reported in Kamuli and Amuru districts where communities with dirty water collection containers are not allowed to collect water from the water sources.

Trend analysis of bacteriological compliance over the last five years implies increasing contamination of rural water sources⁴⁴⁴. Consultations with DLG staff revealed that the funds allocated for monitoring water quality are insufficient to enable regular testing and some districts such as Kisoro lack water testing kits. Staff reported that water sources in some districts were abandoned due to poor quality water caused by poor construction materials (Amuru district) and high iron content which corrodes the galvanized iron pipes.

⁴⁴² Ministry of Water & Environment (2014), Water and Environment Sector Performance Report.

⁴⁴³ Ibid.

⁴⁴⁴ Ibid.

The presence of iron has thus caused many water sources to be abandoned and hence increasing the non-functionality and reducing water coverage to rural areas.

4.4.2. Quality of urban water facilities

The 2014 sector performance report highlighted an improvement in the compliance of treated drinking water which stands at 89.9% for colour, 99.6% for turbidity and 99.7% for E.coli. Consultations with MWE officials revealed that enforcing water quality standards in urban areas is constrained by inadequate staffing, “so if the utility can cut corners they don’t put adequate chemicals, then they will make some savings but the consumer will be suffering because the water will not be of the right quality” (KI MWE).

Compliance to the waste water discharge permit conditions stands at 50%⁴⁴⁵. The major dischargers like NWSC, sugar factories, leather tanning industries do not meet the national standards for wastewater discharge. In order to improve monitoring and compliance to the permit conditions, the MWE has set up four regionally de-concentrated Water Management Zones.

Recommendations

1. Government should provide money for maintenance of capital investments of assets in their annual budgeting processes;
2. The tariff policy – there is need to agree on the key elements for determining the price of water;
3. Strengthen monitoring, - there is need to increase on the wage bill to enable the regulation department recruit more staff;
4. There is need to support consumers to form advocacy groups (e.g. water watch, water voice in other countries) so that they can talk as one voice(hold utilities to account);
5. There is need come up deterrent measures for utilities that do not adhere to the set standards;
6. There is need to operationalise the pro-poor strategy by having concrete actions.

4.4.3. Quality of rural sanitation facilities

Majority of latrines in rural areas do not meet the recommended hygiene standards.⁴⁴⁶ According to a key informant in the northern region, the quality of latrines in the Acholi sub-region stands at 25% coverage.” Discussions with district technical staff, community members and leaders revealed a number of factors affecting latrine quality, these are discussed below;

Collapsing soils and rocky areas make it difficult to construct pit latrines in mountainous areas like Kisoro and Karamoja districts. The ECOSAN technology which could be the alternative was not properly introduced and resulted in poor use, management and later abandonment of the facilities. In Karamoja region, Kumi and Kisoro district toilets collapse due to rains and termites.

Unaffordability - most households especially those with elderly and disabled persons cannot afford to construct improved latrines and may require social support from their leaders to assist them to construct and sustain quality latrines.

Negative community attitude toward sanitation improvement – most households do not prioritise sanitation.

4.4.4. Quality of Sanitation Facilities in Urban areas

The study findings revealed that the quality of sanitation in urban areas is constrained by the following factors;

- **Poor sludge management** in small and large towns – In Kumi district, it was reported that when toilets fill up, the district does not have cess pool emptiers and lack sites for disposal The district was in the process of procuring land for dumping garbage and sludge disposal . In Kisoro, despite availability of

⁴⁴⁵ Ibid.

⁴⁴⁶ Definition of a hygienic latrine – must have a hard floor, easy to clean and provide privacy (to check with MWE Sanitation Coordinator).

cesspool emptiers, the management of the dumping site was poorly management. In Kampala CIDI under the KUPSIP project has 3 cess pool emptiers used to empty pits in the informal settlements of Kampala. An official from KCCA reported that communities in informal settlements release sludge directly in the channels whenever it rains thereby contaminating the water bodies and increasing costs of treatment.

- **Effluent from industries** was another challenge raised by the WMZs as another factor that affects water quality. The Kyoga WMZ stated that,

“We have issued compliance permits regarding discharge of waste water. Compliance assistance is provided, though there are not so many industries in our catchment area which comprises of 52 districts from the Karamoja, Sebei, Teso and Bugishu regions. We have done more on rural water abstraction (hydraulic works- hydro power). Organisations get assistance in waste water discharge.”

Quality and safety of water and sanitation services continue to be a challenge as revealed by the study. Even if water is safe at the point of collection, but users do not maintain the safe water chain then the quality and safety of water will be compromised. The GOU has a responsibility to ensure that good quality construction materials are imported. Meanwhile, protection of water catchment and maintaining the safe water chain is a responsibility of all water stakeholders. Poor quality and water services impact on their acceptability and as a result compromise the realisation of this noble right to water and sanitation.

4.5. Acceptability

The second chapter of the present report explained that the human right to water entitles everyone to acceptable water for personal and domestic uses.⁴⁴⁷ The field study observed that acceptability of some WASH technologies was still low especially in rural communities. A specific example relates to ecosan toilets that were promoted in areas such as Kisoro with difficult terrain and collapsing soils. Efforts geared towards promotion of the ecosan technology did not yield high uptake due to cultural norms which stigmatise the physical handling of faecal matter and hence discourage people from adopting the technology.

Another example of low acceptability relates to the introduction of SODIS as an alternative for treatment of drinking water. The community is sceptical about the efficacy of rays in the treatment of water. Moreover, the people claimed that the amount of sunshine in Kisoro is not reliable during most of the year and hence cannot be relied upon.

In Amuru district, the CDO reported cases where improved water sources were abandoned because the colour of the water was not acceptable to the community and hence abandoning of water and moving back to the traditional water sources (swamps and streams) much as the facility is provided. This is due to high iron content so we are trying to address this by using plastic pipes. But of course in some places where there have been no much complaints, some members of the community may even neglect improved water sources if they are not willing to pay. Part of the critical requirement for sustainability is that the community must contribute towards maintenance to cater for repairs in case of breaks down. In some villages people still have the mentality that water is free despite the fact that they may have the ability to pay.

In conclusion it was noted that there are very few cases where communities had refused to accept the sources provided since they often express demand for improved water sources. They will only refuse a water source if the source has issues of colour due to rusting of pipes leading to poor water quality and high cost. Issues of distance were not mentioned by respondents as a factor affecting acceptability.

4.6. Non Discrimination

Practically, non-discrimination advocates for provision of water and sanitation services equitably without any discrimination and inclusion of all stakeholders in all issues and decisions related to water and sanitation. The sector has conducive strategies and guidelines that promote the participation of women to ensure their engagement in planning and management of water and sanitation services. These include the

⁴⁴⁷ African Charter guidelines, para 88-89; General Comment No. 15, para 2.

water and sanitation gender strategy (2010) and the Operation Plan (2000 – 2005). The Water and Sanitation Sector Gender Statistics profile by UBOS (2012) also highlighted the practice of equal women representation in the management of water.

The MWE aims to achieve the target of reaching out to everyone sustainably. Women have been specifically targeted due to the inherent discrimination in some sections of society in Uganda. One of the guiding principles of the Water Statute (1995) is “To recognize the role women play in the provision, maintenance of water.” Sections 5, 9, 50 and 52 of the Water Statute 1995 provide for the formation of Water User Groups (WUGs) comprising of members of the community and formation of WUCs for the purpose of management of the water facilities.

These provisions have been widely disseminated. District Water Officers, and Community Development Officers were among key informants interviewed across all districts visited who were aware of the sector guidelines that before construction of any water facility, beneficiary communities have to achieve the following minimum requirements:

1. The composition of WUCs and Water and Sanitation Committees (WSCs) should be at least 50% women representation;
2. Election of women in key positions in the committees (e.g. Chair, treasurer, etc.) is strongly encouraged and measured during every annual sector performance reporting process;
3. Participation in any training shall target women and their male colleagues;
4. Women and men are to be involved in discussing the siting of water facilities.

According to the key informant from Amuru district,

“We have advocacy meetings, both at the district and lower local government levels, that is at the sub-county, so that is when we also give them the policy. For example if you are to access water, we look at Gender as one of the key aspects. So in the formation of the water source committee, we look at least 50% should be women. When all our water sources committee are being submitted, if you the women are less, they will say no. We need at least 50% women and at least 50% taking the key roles, of chairperson, Secretary and a treasurer. In a water source where women are more than men it is more effective. And one of the challenges that we have when you select more men, you go back after three months you find when men are not there. You will find only women. So in one way or another, you know that when you involve women, they will do their work”.

This was echoed by a MWE official who informed the research team that in terms of policy on the vulnerable groups, women is mandatory and that they should be at least in a third of the key positions. He noted that in some areas where the women are very strong they are actually active and success has been realised where the ladies are actually expressing themselves and providing the leadership because the primary users of water in society are women and even the primary people who lose in case of poor sanitation are women. However he noted that in some areas women still remain in numbers and they still keep back in decision making.

In Amuru district, Amuru Town Council and Kungendi village, a 50% equal representation of women on a six member WSC was confirmed and women occupied the positions of treasurer, mobilisers and committee members. The same practice was evident in Kisoro district with Mwihe gravity flow scheme, Kamuli with Kasambira Water board and Ongino sub county water board in Kumi districts.

The advocacy for women representation in the referenced literature is very precise, “50% women” representation on the WUCs and WSCs. Whereas the non-discrimination principle is being addressed in form of at least 50% women representation, on WUCs it is perceived from the “sex” the “men and women” perspective and not from the Social Inclusiveness criteria. The requirement for “at least 50% women representation” is silent about the other vulnerable categories of people. For example, children, the elderly persons, PWDs and persons living with HIV and AIDS and other minority groups such as the Batwa in Kisoro district who have unique and divergent water needs that could be captured at the representation level and addressed appropriately.

The above argument is supported by a key informant in the Ministry of Gender Labour and Social Development who argued that of course gender is a big ministry and that getting someone from gender, who talks about women and forgets that there are other categories of people such as persons with disabilities who benefit and other beneficially groups where everyone has his or her interests is most likely. To her issues of gender should be inclusive of all gender categories and not only women *per se*.

“... and as I am talking I will talk about the persons with disabilities and another one will talk about the women and another one will talk about the children and these older people have minor and unique things that may be over looked so representation of all is very important.”

WUCs are the highest decision making structures at community level as well as for the water user and direct beneficiary levels. This means that if some categories of vulnerable populations are not specifically represented, their level of inclusion in decision making may be compromised.

There are linkages between planning for WASH at district and national level. WASH services are demand driven from the grass root level. There are water and Sanitation coordination committees and Water and Sanitation working groups at DLGs and National level respectively which include civil society organisations that work at the grass root levels. These meetings integrate local views in the planning process for WASH. The Ministry of Finance Planning and Economic Development finances and monitors DLG work plans and budget that is communally generated. In all DLGs studied, it was reported that the need for a water source follows a bottom up demand driven approach that involves a lot of processes and planning by the concerned communities. Community and WUC meetings are held to plan for the water source; an application is submitted to the DWO after which an assessment and planning is done to among other things, consider the availability of land, land ownership and community contribution. A communal land ownership agreement is obtained from the person in whose land the water source will be located to avoid instances of the land owners claiming ownership of the water sources if it is constructed in an individual's land. This planning is implemented by the WUC whose composition is advocated to be at least 50% of women. It should be appreciated that only 7%⁴⁴⁸ of the land in Uganda is owned by women and in women for example do not customarily inherit land and. Land ownership issues have a big bearing on the planning for a water source and may socially exclude the landless and create imbalances. Gender imbalances are responsible for discrimination in many sectors of which water and sanitation is inclusive.

At national level planning and targeting for the un-served population is provided for in the pro-poor strategy which is supposed to be implemented by DLGs. Study findings revealed that attempts to serve the poor in urban and rural growth centres were in practice. In order to ease access to water for the poor, water kiosks are installed in informal settlements from where households purchase water on retail at a cost of UGX 100-200/ (USD 0.03-0.06) per 20 litres. To meet the minimum daily standard of 20 litres per person for a household with an average of seven persons translates into a daily expenditure of UGX 1,400/= (USD 2.61) on water. This expense in the long run is unaffordable for majority of the urban poor persons and could compromise on the recommended amount of water to be used per day thereby posing a threat to the enjoyment of the right to health. This challenge was highlighted in the pro-poor strategy of 2006 as illustrated below;

“The practice in small towns has not in the past followed the policy (flat tariffs which mean the poor, who often access water through vendors, end up paying more than the well-off; operation and maintenance are subsidized for those already served leaving the un-served without)”

Discussions with the Office of the Prime Minister (OPM) officials revealed that the work plan for coordinating sanitation is in place and the priority is in urban areas then schools. At the decentralized level, the OPM works through the Ministry of Local government and the PM has issued a directive to local governments to formulate by-laws and the follow up is being done by the steering committee at national level.

⁴⁴⁸ Water and Environment Sector Performance Report, 2002.

General Comment No. 15 emphasises that water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population to ensure “the right of access to water and water facilities on a non-discriminatory basis, especially for disadvantaged or marginalized groups.”⁴⁴⁹

Findings revealed that priority is given to institutions (that harbour vulnerable groups) such as schools, hospitals/clinics, refugee camps/internally displaced person centres, prisons, in access to water and sanitation (including extension services, tariffs or subsidy plans)?

A key informant in Amuru district noted that schools and health centres are among the categories of institutions which are given high priority. He reported that all the health centres and schools, in the district, except where it was not technically feasible, were provided with safe water sources. He however, mentioned that the district has experienced a challenge of fencing off water sources at health facilities which denies access for the neighbouring community.

In Nakapiripirit, it was revealed that CSOs and the district give priority to schools by supporting them to build VIP toilets. The challenge however was that those VIP toilets fill up very fast, and when they do it is hard to empty them. This is partly due to the poor and collapsing soils in the area associated with the low water table and flat land, that when it rains it easily mixes up with the faecal matter and makes it difficult for toilets to be drainable in most schools.

In Kisoro District, CSOs such as the Muhabura Diocese WATSAN programme, give special consideration to the Batwa community in their effort to provide safe water and good hygiene and sanitation services to the community. The Batwa are an isolated and poor minority ethnic group living in the mountainous areas and in the outskirts of Bwindi forest which spans the districts of Kisoro, Kanungu, and Bundibugyo which are water stressed. Rain water tanks have been provided to this community despite the associated challenges. One of the Key Informants in Kisoro district said:

“They are part and parcel of the community where we work. We built 2 water tanks of 4000 litres capacity for the Batwa. However, the challenge is that a few of them have iron roofed houses which are even very small”

4.7. Public Participation

Public participation in the local development processes (including delivery of water and sanitation services) is promoted and guided by a number of legislative and policy frameworks. The Local Government - 1997 (Cap 243) provides for decentralisation at all levels of LGs to ensure good governance and democratic participation in, and control of, decision making by the people.⁴⁵⁰ The LG Development Planning Guidelines stipulate that “effective LG planning calls for participation of lower local councils, community institutions, non-governmental organisations, and the private sector in the LG development processes.”⁴⁵¹ Besides being the representative institutions for the targeted beneficiaries of the LG development plans, these institutions are also expected to take active part in the planning processes so that planning is made more relevant by addressing the real development needs and challenges faced by the people.⁴⁵²

However findings in Amuru district revealed that the effectiveness of participatory planning process is affected by an overcrowded agenda and the limited time allocated for presentations during the Technical Planning meetings at district and sub-county level.

The DIM stipulates that the process of improving water sources should be participatory and the activities undertaken are demand-responsive.⁴⁵³ The Demand Responsive Approach (DRA) requires community members to be primarily made aware of the benefits of improved water supplies and good sanitation so that they can demand service improvements with the support of LGs and NGOs/CBOs.⁴⁵⁴ There is a clear set of requirements which must be met prior to and after construction of water sources. Some of the critical

⁴⁴⁹ General Comment No. 15, para 37(b).

⁴⁵⁰ GoU (1997) Local Government Act.

⁴⁵¹ GoU (2014) Uganda Vision 2040, the Local Government Development Planning Guidelines.

⁴⁵² Ibid.

⁴⁵³ MWE (2013), District Implementation Manual – revised.

⁴⁵⁴ MWE (2013), District Implementation Manual – revised.

elements include signing of MOUs between the sub-county and communities, ensuring meaningful women participation, promotion of hygiene and sanitation, community contribution, settlement of land disputes, development of a three-year operation and maintenance plan.⁴⁵⁵ All these require the community to have access and able to use relevant information to make informed decisions at all levels.

Regarding land, the study established that in Amuru district in order to avoid future conflicts, a land owner must sign a land agreement specifying that he has agreed to freely donate the land on which a communal water source is to be located.

To provide a strong basis for sustainability of facilities, the work plan for provision of water and sanitation services should be based on community written requests to LG. The study findings revealed that there was evidence of mobilisation of communities by Community Development Officers (CDOs) and NGOs to participate in safe water and sanitation activities, as well as promotion of hygiene behaviours, and funding for software activities to facilitate O&M and follow up support.

In Amuru district, the CDO confirmed that technical staff and NGOs mobilize the community including persons with disabilities to participate in planning meetings and monitoring implementation of government projects. However, a local leader in Ongino village in Kumi district, expressed that,

“Much as women are encouraged, their participation is often limited by lack of education, inferiority complex, fear to take up positions and at times women are not allowed by their husbands to go to public places.”

The CDO (Amuru) further indicated that before community members are trained in their roles and responsibilities, they are facilitated to constitute a water source committee to spearhead the operation and maintenance of these water facilities.

Regarding the Operation and Maintenance plan, under the CBMS, communities are responsible for the management of their water facilities by participating in planning and management of improved water facilities through payment of O&M funds. The DIM (2013) recognises the involvement of Private Sector Operators (POs) in cases of piped water supplies, but also notes that in many Gravity Flow Schemes (GFS), it is the communities that undertake O&M. For example in Kisoro district, the Mwihe GFS central committee oversees all the management of the twelve tap stands and is responsible for O&M of the scheme. At the village level e.g. Bwehe village WUC in Mbuga Parish of Nyakinama Sub County, each tap stand has a Water User Committee for the day to day operations.

Other actors in the promotion of public participation in O&M include the Sub-County LGs, districts, Civil Society Organisations and the central government. The research team noted some innovative approaches that have yielded positive results from the CBMS. For example in Kamwenge district, Water for people (WfP) developed a planning and co-ordination approach where the Sub county chief is involved at all stages of the project and acts as a signatory to the O & M fund. This has facilitated long term engagement of the LG officials alongside the community in the entire water development and management process.

Public participation in water supply and sanitation programmes has in particular, helped to improve access to water and sanitation facilities and brought a range of benefits to people with disabilities and their families, including dignity and self-reliance. With regards to the vulnerable groups, World Vision Uganda introduced the use of community groups called the Bubondo (clusters) in Rakai district which has helped to reach the lowest vulnerable groups and also focus on the orphans, children and People with Disabilities (PWDs).

DLGs, DWOs, CDOs and Natural Resources and Environment Officers have brought people together to discuss ways of sustainable water management. Catchment plans have been developed. The respondent of the Kyoga WMZ reported that they work with NWSC, NGOs, NFA, UWA to develop plans and so far plans for Aweya, Mpologoma and Victoria are about to be completed.

“We hold quarterly meetings, workshops on water resource assessment, and how water protection guidelines can be applied.”

⁴⁵⁵ Ibid.

In addition, the WMZs reported that institutional mechanisms have been established at sub-county level to

“Services and initiatives in the catchment area have been appreciated and more can happen. The turn up at awareness raising workshops is good and people are passionate on the discussions. We look forward to increase monitoring since the flow of funds is no longer problematic. Now we have regional accounts facilitated, which has made procurement procedures easier.”

Conversely, discussions with Amuru Health Centre Water Management Committee revealed that they were not consulted about the construction of the borehole at the health centre and as such, they did not contribute towards the construction of the borehole since the water facility belongs to the health centre. However, the community set the monthly user fee for O&M.

Amuru Water User Committee FGD reported that, they were asked about the land for drilling the borehole and they accepted to donate it. In addition, the community decided on the amount of funds for O and M and contributed towards the construction by providing bricks and participated in the selection of members to the WSCs. However, the community did not participate in deciding on the drilling of the borehole. Vulnerable community members are exempted from payment of O&M user fees.

For Mwihe Gravity Flow Scheme Management Committee in Kisoro district users pay monthly user fees towards maintenance of the tap stands. The community decided and donated land where the pipes were laid. They also decided on the location of the tap stands, and the O and M user fees to be paid. When an extension is to be made, the water officials explain the extension plan and the requirements that should be fulfilled by the community after communities make an application to the water office. The community also decided to exempt the elderly from paying O&M user fees.

From the preceding cases, it is evident that communities in the study districts participate in making decisions on the following aspects of WSS; selecting of management committees, the amount of O&M funds to be paid per household and land on which water facilities are constructed. Conversely, decisions on the type of technology and amount to be paid by the community towards the capital cost of a water facility are made by the district technical staff and the MWE respectively. In Kisoro, for instance, it was reported that pipes were laid in places prone to floods and collapsing soils and get damaged thereby affecting availability and sustainability and yet the communities participated in the location of the pipes. This scenario could point to ineffective participation of communities in monitoring implementation of WSS services.

Despite the sector’s efforts in promoting participation of women in the management of WSS services, the HRWS study revealed that their participation is often limited by lack of education, inferiority complex and fear to take up leadership positions. As a result, their impact in making decisions on location of facilities and technology choice is still limited and this may affect acceptability and eventual operation, maintenance and sustainability of provided facilities. Instead, it is the technical staffs who decide on location of facilities and technology choice. However, other studies such as the MWE 2011 CBMS study and the SIWI 2015 Water Integrity and Gender study (forthcoming) indicate that participation of women in the management of water sources has had a positive impact on sustainability of the facilities.

Some of the major challenges affecting public participation emanate from the declining spirit of voluntarism amongst members of the WUCs which negatively impact on sustainability of the facilities which have been put in place. Inadequate resources and guidelines to ensure effective participation of the different categories of vulnerable community members including PWDs, elderly persons and other marginalised groups in all the stages of implementation is another challenge.

4.8. Access to information

Individuals and communities should be given full and equal access to information concerning water supply and sanitation services, whether this is held by public authorities or third parties. Access to information is essential to ensure the real and meaningful participation of communities in decision making about water and sanitation.⁴⁵⁶

The South Western Umbrella Organisations reported that they attend Steering Committee meetings with

⁴⁵⁶ Haki Zetu, 2010 Economic Social Cultural Rights in Practice.

the WSDF of the region. They also present status reports of the different schemes during the coordination meetings. Similarly, Technical Support Units share information with districts during inter-district meetings, advocacy meetings and meetings with partners.

The Water Supply and Sanitation sub-sector promotes the demand responsive approach (DRA) in the provision of water and sanitation services to communities. If communities are to meaningfully participate and make decision on WASH services, they must access information. The sector guidelines stipulate that up to eight percent (8%) of the District Water and Sanitation Grant should be allocated to “software activities” (advocacy meetings, community mobilization, training, and; hygiene and sanitation promotion). The sector has developed various guidelines for sensitising and training communities in a participatory manner to ensure demand, gender responsive, equitable and inclusive implementation of water and sanitation activities, and ensure sustainability of water supply and sanitation facilities. Such guidelines include the Rural Water Supply and Sanitation Handbook for Extension Workers (revised in 2014), the Community Resource Book and the Participatory Tool Kit.

In line with the decentralisation policy, district local governments and urban councils are mandated to provide information that enables communities to make informed decisions related to water supply and sanitation services such as technology choice, location of facilities and service level.

All District Water Officers in the study districts reported that they share information with the Ministry of Water and Environment during annual District Water Officers meetings, regional inter-district meetings and they submit quarterly/annual work plans and reports. Amuru and Kisoro districts hold advocacy meetings to inform district and sub-county leaders about sector policies and guidelines; review the water and sanitation situation in the districts and sub-counties and available resources for WSS service delivery. Similarly, districts local governments hold meetings to inform communities about the six critical requirements⁴⁵⁷ for accessing water and sanitation services.

In Amuru district, consultative meetings are organised to identify community priorities which are then submitted to the parish and later assessed at the sub-county and sent to the district planning team, Other methods mentioned in Amuru, Kisoro and Kumi districts included radio talk shows drama shows, school environment clubs and environment campaigns and home visits in Kumi district. Some districts such as Amuru district publishes public notices on the funds received however, it is hard for the communities which stay far from the sub-county to track the funds received by the district and hence holding their leaders to account.

In Kumi district, extension workers are engaged by the DWO to pass over messages to communities. Also, communities directly seek information from the district water office; sometimes the DWO goes to the communities and writes letters to the lower local governments.

“They demand or sometimes they write through their local leaders, because for them sometimes they cannot reach here, but through their local leadership either L.C 1, Councillor, a local council leader and soon they write to us and we also respond.”

Water and Sanitation subscribe to the basic **rights** and freedoms to which all **humans** are considered to be entitled which are often held to include the **rights** to life, liberty, equality, ... Discrimination in the provision of water and sanitation services is a violation of basic human rights and the right to life at that. The study neither reveals deliberate discrimination nor deliberate targeting. Provision of water and sanitation services is still a general provision without consideration of the marginalised and vulnerable persons in Uganda. The female gender has been put into consideration in this regard, but social inclusiveness is still a gap in water and sanitation provision which makes the findings lean towards discrimination. The principle remains that whether one, two or a hundred persons, they are equally entitled to basic rights and freedoms to which all

⁴⁵⁷ The six critical requirements are: 1. Signing of MOUs that stipulate the nature of cooperation and obligations and responsibilities between the GOU and district; Districts & Sub-counties; Sub-counties and communities; clients and contracts; 2. Meaningful involvement of women; 3. Hygiene promotion and sanitation; 4. Community contribution; 5. Settlement of land and ownership conflicts; 6. Operation & Maintenance plan.

humans are. Equal participation, access to information, and all catalysts of the realisation and monitoring of the right to water and sanitation should equally be allowed to all the stakeholders.

4.8.1. The Pro-Poor Strategy, 2006

This strategy was based on the outcome of the deliberations of the Finance Thematic Sub-sector Working Group led by the Directorate of Water Development (DWD) with the participation of the main stakeholders. A pro-poor strategy came into forth into 2006. The objective of the pro-poor strategy was to improve effectiveness of the water and sanitation sector in providing services to the poor.

4.8.2. Awareness about the Pro-Poor strategy

The study findings indicated that awareness about the pro-poor strategy was high at the national level but scanty at DLGs.

According to key informants at the MWE,

“It is not clear whether it has been disseminated, but some components have been implemented.”

Another MWE official stated that,

“The pro-poor strategy I think has worked a lot in this sector. We started slowly in partial schemes where we realize that actually poor people were not being connected because they couldn’t afford the cost of the pipelines and we said ok as part of our pro-poor strategy, let’s allow them to connect at subsidized rates. So we said everybody should connect at a fixed rate of 50,000/=. In all the piped schemes, we were doing the large gravity schemes and that is the strategy we were using,”

Another key informant stated that,

“Now the strategy was developed and it is a good strategy but I think what has been lacking is the implementation and the implementation mainly is on the delivery mechanism. We need to provide the services to the poor but how do we provide the service to the poor. That is the pro-poor strategy. At least we have something to guide how we can tackle them. We are not working from the vacuum. The strategy is there but of course it has to be translated into concrete actions. And I know they are revising it now so some of the things may change. He recommended that there is need to update the pro poor strategy and come up with concrete actions for operationalizing the strategy.”

“Yes, it is a good strategy which has been partially implemented in the urban towns and RGCs. However, the knowledge is very limited. It should be disseminated to project mobilisers, Heads of Departments and Local governments.”

Key informants in Kisoro, Nakapiripirit and Amuru districts for example, attested that,

“We are not aware of the pro-poor policy but we focus on the poor people in the district. For example, communal rain water tanks are distributed to the poor.”

A similar confirmation was made by a respondent in one of the TSUs when he said that, *“the pro- poor strategy has not yet been utilised even with the TSUs.”*

A number of suggestions were made for ensuring that the strategy is utilized. One MWE respondent proposed that,

“A proper definition of the “poor” should be made and not “pro-poor.” At the moment, categorisation of the poor is problematic. Focus of this study should be placed on “why things in WASH are not happening as opposed to Human Rights to WASH – HRTWS.”

He pointed out that,

“Universal access to WASH is the issue and not the marginalised. There are the so called poor in Kawempe and Bwaise with bigger disposable incomes. Many people are not clear that water is a

human right. It is not just about the hard to reach areas and marginalised, but universal access to water because everyone can be marginalised depending on where they live or stay.”

He recommended that,

“The right to water needs to be unpacked. Prescribe how everybody will understand water as a right. Analysis from the study should indicate whether the pro poor strategy is important or necessary. All stakeholders from the president need to know the right to water. Tailor make and disseminate messages of HRTWS bearing in mind the cultural information intake of the target audiences.”

“We’ve heard about it. Well, first of all when we are providing these facilities ...we go into the community, we assess the needy communities and it’s from such assessments that we provide these facilities, depending on the demand and also the type of technology applicable there.”

The NWSC has deliberately established the Pro-poor Unit with a branch in Kisenyi. However challenges with the tariffs, land ownership and inaccessibility issues were raised as factors that could affect these initiatives. The Water for People Pay-As-You fetch approach could be replicated by NWSC. Likewise, self-supply initiatives could go a long way to address some challenges.

From the above findings, it is evident that awareness of the pro-poor strategy was high at the national level compared to the DLGs. The implementation however seems to lack targeting and social inclusiveness especially at the district level. The study team noted that the pro-poor strategy has to a small extent been implemented in the urban setting targeting the urban poor. However, for rural areas, it is left at the discretion of the district and communities to identify who is poor and hence who should be targeted.

In line with the sector-wide approach to planning and implementation of WASH services, the sector developed the District Implementation Manual (revised in 2013). The manual is intended to support and guide sector stakeholders at district level to implement hygiene, sanitation and water supply activities in a coordinated and harmonized way. The study noted that although district water and sanitation coordination committee meetings are held in all the study districts, their performance is constrained by irregular attendance by some departments and NGOs. In some instances, meetings are called at short notice and some stakeholders delegate the responsibility to junior staff who cannot commit their departments as reported in Amuru and Kisoro districts. This forum, if well organised would provide a platform for sharing WSS plans, reviewing progress, problem solving and facilitating dialogue among stakeholders at district level.

Quarterly sub-county extension staff meetings are held in Amuru and Kamuli districts to review progress, work plans and budgets, discuss implementation challenges, prioritise activities and share best operational practices. The extension staffs in turn share the information with sub-county authorities and communities. The FGD in Mwihe gravity flow scheme management committee confirmed that they receive information about water from their leaders and radio.

Consultations with district level stakeholders showed that there are a number of challenges that affect access to information and thereby limit participation of communities in decision making processes. These are;

Inadequate funding - The 8% funds of the Conditional Grant which is allocated to software implementation is inadequate to mobilize communities and re-activate WSCs in districts with low functionality of constructed facilities. In addition, there is loss of opportunity to target marginalised groups, and knowing the district and sub-county authorities commitments made towards water supply and sanitation and therefore cannot put them to account in case of failure to honour such pledges. It was reported that in some districts (in TSU 2 & 8) the funds for software activities are diverted to implement other activities. In an extreme situation in one of the study districts, funds from the Water and Sanitation Conditional Grant were diverted to pay for a court case. The lack of funding leads to poor mobilisation and training of communities in their obligations. This results in poor operation and maintenance of constructed facilities thereby affecting access to safe water. Amuru DWO had this to say,

“the 8% is low we have been complaining that they should increase it and they said that they were going to increase it up to 12% but up to now it has remained at 8%.”

The TSU 8 however raised concern about the utilisation of the software funds when they stated that,

“8% budget allocation to the districts is not being utilised well for the intended purpose. Some LGs have diverted it to hardware facilities. Politicians also want water facilities in their areas to win voters. The money is not enough to re-activate water user committees which are non-functional. It has been highly compromised by the politicians at local level due to lack of assertive staff for the software component”

Other challenges revealed by the study that affect access to information and thereby limit participation of communities in decision making processes include;

1. **Laxity by DLGs to display conditional grant disbursements** on district notice boards denies the community the opportunity to know the WSS funds received and therefore disabling them from holding their leaders accountable for their actions or omissions;
2. **Ineffective collaboration between WASH departments and NGOs in some districts** - Some departments are not active in DWSCC e.g. Amuru. Some NGOs implement their activities directly with sub-counties hence making it difficult for the district to monitor adherence to the sector guidelines. Such scenarios lead to duplication of efforts and thus affect access to water supply and sanitation for un-served areas and marginalised groups;
3. **Lack of prioritization of software activities** by some district local governments leading to low community participation in planning, implementation, monitoring and evaluation of sector activities.
4. **Distant meeting venues limit participation of PWDs** – PWDs and the elderly find it hard to reach the meeting venues (e.g. in Amuru district). As a result PWDs and other vulnerable persons’ participation in key decision processes is undermined due to lack of /inadequate information on the water and sanitation services available at the sub-county or district;
5. **Communities do not understand their right to safe water and adequate sanitation** and therefore do not effectively demand for WASH services; e.g. in Amuru.
6. **Lack/inadequate transport and facilitation of extension staff** e.g. in Kamuli, limits their mobility and hence affects their ability to provide information on water supply and sanitation services to communities.

Recommendations

1. The sector should review the budget for software activities to customize it to the specific needs of each district;
2. The office of the CAO should ensure that the conditional grant disbursements are displayed to ease public access;
3. The DWSCCs should be strengthened - Departments such as education need to get more involved and the District Water Offices and District Engineering offices need to be strengthened to collaborate better (Amuru);
4. Technical Support Units should strengthen their monitoring of districts to ensure adherence to the sector guidelines;
5. The software guidelines should incorporate participation of vulnerable people (e.g. the elderly, children and PDWs) into WASH activities (venues, time, communication channels, etc.) to ensure that their needs are put into consideration. Likewise, vulnerable groups (e.g. PWDs, the elderly, children, etc.) should be incorporated onto village and parish planning committees to ensure that their needs are properly reflected in any planned WASH interventions;
6. The communities should be sensitised about their civic responsibility in regard to proper sanitation;

7. There is need to empower communities to demand and monitor the implementation of WASH programs. This will enable them to hold leaders accountable for any omissions in service delivery;
8. The Pro-poor strategy should be popularised and should incorporate community awareness and training aspects to enable people appreciate the linkage between proper water resources management, proper operation and maintenance and access to water.

4.9. Accountability

The research team noted that efforts have been made to establish transparent and suitable financial management systems in the DLGs.

In Kamuli district study findings revealed that funds were diverted from the water department to pay one district official for remedies. Whereas this was a remedy for one individual, it affected service provision for the majority of the citizens whose right to water and sanitation service provision was compromised. The KI Kamuli had this to say;

“By taking UGX 270 Million from the total budget of 650, that’s almost half of the budget for water. This impacts negatively on service delivery especially in the underserved sub counties such as Namagali which are in the cattle corridor”

In relation to oversight responsibilities, the State must provide for mechanisms that establish oversight and control between both public and private actors in water and sanitation provision. Taking on the above example it was not clearly established whether all stakeholders were given an accountability of these diverted resources. This shows that institutional mandates are not clearly defined and manifests existence of gaps within the accountability system of water and sanitation provision. The Ugandan Constitution provides a right to apply to a court in respect of an administrative decision taken against an individual.⁴⁵⁸ A right to apply for redress entitles any person who claims that a human right guaranteed under the Constitution has been threatened to apply to a competent court for this purpose.⁴⁵⁹

Whereas, citizens have the right to report human rights violations to the **Uganda Human Rights Commission** (UHRC), the question remains as to how many citizens ever complain their right to accountability. Such complaints can only originate from citizens who have awareness of the sector budget allocations and adequate empowerment to exercise their right to complain.

Another accountability mechanism referred to in the Constitution is the **Equal Opportunity Commission** (EOC). The independent⁴⁶⁰ body is mandated to eliminate discrimination and inequalities in Uganda.

The Uganda Human Rights Commission has registered some complaints on alleged violation of the right to water and sanitation⁴⁶¹, one of which was received in April 2015 by a resident in Jinja who complained of disconnection of water and closure of his sewerage pipe system for a couple of days by the National Water and Sewerage Corporation in Jinja. Additional information on the Uganda Human Rights Commission may be found in the second Chapter of this report.

ULGA and ACODE developed a score card assessment for the DLGs. These indicate the roles and responsibilities of the local leaders including the responsibility to monitor the facilities and identify/report issues that need to be addressed. One avenue is through the Barazaas. However, this mechanism is facing a lot of political sabotage. Whenever there is civic engagement, communities put the leadership to task to explain government programmes but the political leaders never want to account but instead take advantage to promote their political agendas.

The Uganda Local Government Finance Commission reported that it participates in negotiations on issues with regard to human resource in the DLGs. They also informed the study team that in the WASH sector, engineers are hired on contract basis. DLGs have not had adequate resources that attract engineers; hence they were allowed to employ district engineers. The MWE has been very responsive in addressing DLG

⁴⁵⁸ Constitution, Article 42.

⁴⁵⁹ Constitution, Article 50.

⁴⁶⁰ The Equal Opportunities Commission Act, 2007, Section 3.

⁴⁶¹ Information provided by the UHRC, June 2015.

issues. However, in some instances, District Water Officers also double as District Engineers which and this has affected performance since they do not have adequate time to offer water services to communities, health centres and schools.

Insufficient resources make it difficult for DLGs to hire the required human resources in all critical positions. For example the two UOs noted inadequate staffing to carry out the accountability role of water quality testing in a timely manner. Furthermore, delays in the procurement processes present a critical challenge for DLGs which delays implementation in the water sector.

In order to increase accountability in the sector, a key informant from the Ministry of finance Planning and Economic development recommended that coordination among line ministries should be intensified;

“Proper coordination will help to ensure that the money that is released to the district is properly used at the district to address critical needs of the population”

Uganda Human Rights Commission (UHRC) is one other National judicial body that advocates for Human Rights broadly. A KI from this commission reported that they monitor compliance to international standards and the right to water is included in the checklist.

“Specifically, issues of the right to access water in prisons and health units are critical for us. We generally look at adequate housing which includes water and sanitation”

Whereas this is a good bearing it is in a broad perspective, and specific attention to water and sanitation as a human right is desirable and efforts by UHRC to check and monitor if the water policies by MWE are rights based and how they affect the people’s right to water and sanitation. The UHRC has also proposed to investigate the extent to which NWSC through the privatisation of some water facilities to private operators of water f of water is managing this public good in a rights based approach to ensure water is economically and physically accessible to all. This is interplay of business, duty and protection of people’s rights to ensure a balance.

4.9.1. Complaint Mechanisms

Study findings revealed varied mechanisms for lodging complaints about water and sanitation including; through local leaders, extension staff, during advocacy meetings, public accountability forums (barazas), radio talk shows and public events like World Water Days, and sanitation week celebrations. The complaints raised by the community are also reported to the WUCs. Revelations from FGDs show that feedback takes long to be received e.g. Kungedi health centre. This was confirmed by a key informant at the district who revealed that the District local government is slow and constrained to respond to the complaints made by the communities. CSOs such as ACORD and Action Aid sometimes organize public accountability sessions on WASH in Amuru and Kumi districts respectively. Complaints in urban schemes are raised through the water boards and annual general assemblies (Amuru). At national level, MWE through the regulation department undertakes customer satisfactory surveys and has installed telephone hot lines and customer care desks to interact with the customers about the quality of services provided by the water utility companies. In Amuru district, complaints about water supply and sanitation services are raised through the community leaders and public accountability forums and public events such as World Water days and during advocacy meetings.

A MWE official reported that interactions between customers and utilities are promoted. He stated that,

“We interact with the customers they know what we are doing, and we normally hold sensitization meetings and all that so that they know. Actually whenever there is a complaint, if there is the utility and the consumer is not satisfied he first of all goes to the utility and we give them the limit let’s say a week within say a week, the utility should have taken action. If the utility has not taken action, this consumer has a right now to come to us. , But we always make sure that at least that the consumers are aware that we are around and they know that we have protected their interest.”

He further stated that,

“Now what we normally do is periodically we have a team coming from here with the questionnaires; what we call customer satisfactory surveys and it is a round up so we send our team

there and they go out with the questionnaires and they ask people. Are you satisfied with the water service? How many hours do you get the supply, how is the water quality. When you submit in your complaints, are they attended to? So we use statistical methods to analyse how the consumers perceive the services being provided by the utility. Then as I mention every utility is supposed to have a customer care desk and it is a body of the hot line.”

Respect to accountability is one of the positive moves towards the implementation of human Rights in the broader perspective. To attain this aspect of human rights, citizens have to be empowered to be accountable themselves and or demand for accountability from their service providers and leaders. But with poor or no participation, there will be no access to information, and with no relevant information, accountability may be compromised. Appreciating and demanding for due human rights and freedoms begin with being aware of them and their due responsibilities and obligations. This was found to be a gap which inhibits the realization of the implementation of the right to water and sanitation.

4.10. Monitoring

The performance of the water supply and sanitation sub-sector is measured against eleven golden indicators while that of the Environment sub-sector is measured against ten platinum indicators. Sector performance is reviewed annually and the status is reflected in sector performance reports. The sector developed and disseminated reporting formats that DLGs use to capture data on quarterly and annual basis. In addition to that, the sector, through the MIS Unit of the WESLD, has continued to update the water supply database in order to provide more accurate information on the status of safe water sources in Uganda.

The MWE established eight regional Technical Support Units to build capacity and provide technical back up support to local governments in planning, implementation, monitoring, and supervision of WSS services. The study findings revealed that TSUs are doing commendable work. One key informant from Amuru district stated that,

“They had done a lot to support, but we need more guidance on community mobilisation, hygiene education, behavioural changes and sensitisation of VHTs.”

Another key respondent from Kisoro district stated that,

“TSUs are very useful in the planning, technical guidance, monitoring and supervision of activities and they respond in a timely manner to calls from the districts. They are helping sub-counties to establish Sanitation Coordination Committee in 4 sub-counties to supervise and monitor at sub-county level.”

A key informant from Nakapiripirit district reported that,

“The TSU gives us support where we need it. We call them and we share issues in water they also come on their own and ask us if we have any problem. They also look at our reports and work plan to see if they are in the required form. They give us indicative planning figures.”

According to a MWE official TSUs verify all water and sanitation activities implemented and reported by DLGs in the annual reports. During the verification visits they register the coordinates, take pictures of the constructed WASH facilities and talk to the WSCs and communities to establish the existence, composition and functionality of the WSCs and water sources. In addition, they find out whether the communities participated in the planning and implementation process as well as the sanitation status of households around the water source.

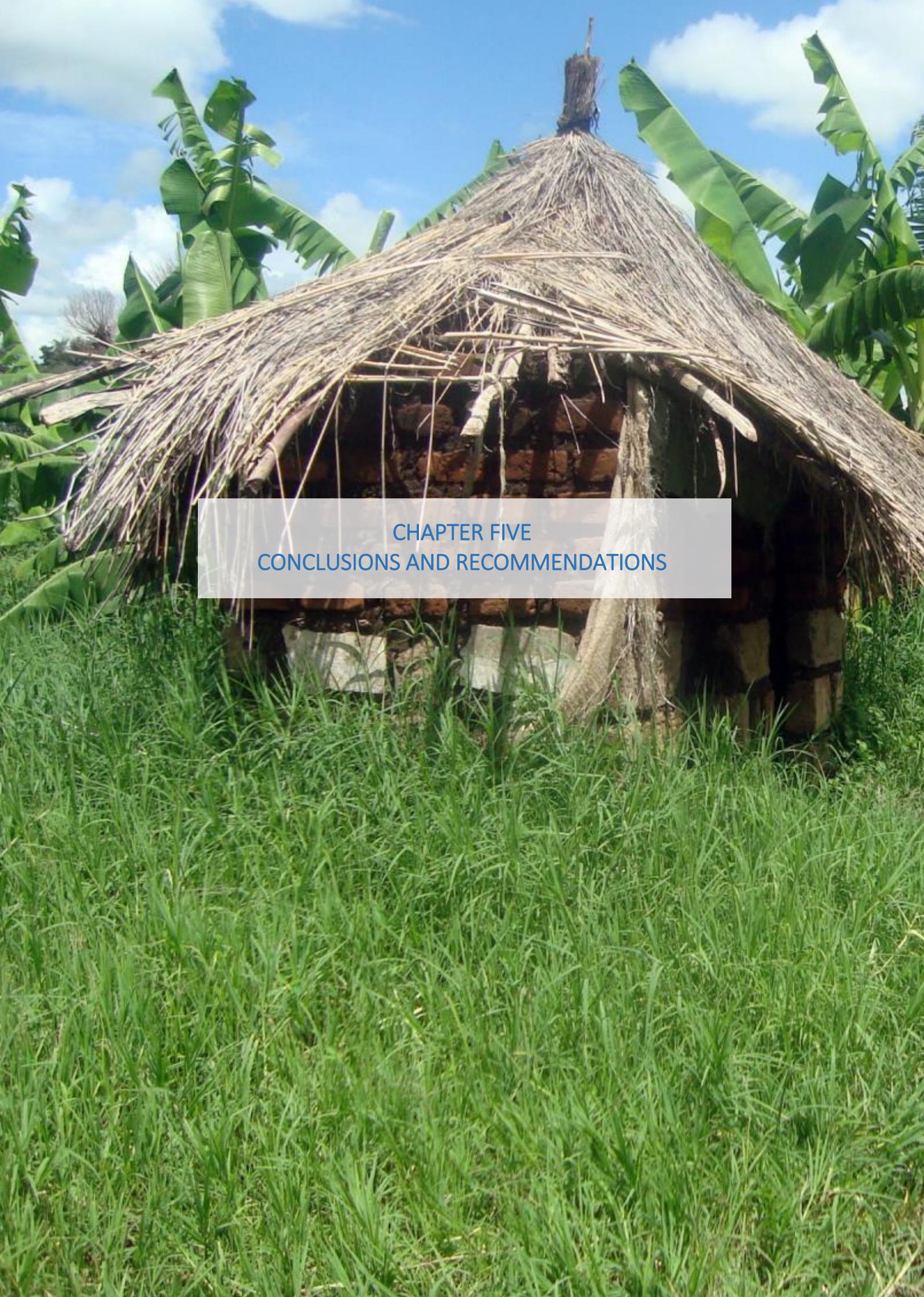
Consultations with TSUs revealed that there are no direct funds provided to TSUs for capacity building of DLGs. Mostly the TSUs undertake on-job-support and mentoring as opposed to formal training.

As part of the conditional grant to districts, 6% of the funds is allocated for monitoring and supervision of WSS services. A key respondent in Amuru district complained that the funds allocated for monitoring is inadequate. Besides that, sometimes data collected by the extension staff is unreliable and has to be verified. This challenge was confirmed by a TSU respondent when he noted that *“data collected may not be accurate and needs to be verified by TSU.”* The district official stated that, *“on functionality, at times they*

just sit somewhere and fill the form. And when you get down you realize that it is not true." The respondent attributed this state of affairs to an insufficient budget and mentality issue whereby the extension staff will use the hand pump mechanics to provide them with information. He suggested increasing staffing in the water office which is currently understaffed, only one man's office. A TSU respondent pointed to a need to improve monitoring of data collection at sub-county to avoid false coverage.

The sector established Water Management Zones intended, among others, to improve compliance to requirements of water abstraction and wastewater discharge permits. Consultations with the Kyoga WMZ revealed that when clients bring water samples for analysis they are issued with certificate of analysis following laid out parameters and provided with a technical report. In cases of lack of compliance to the permit conditions, letters have been written to remind to permit holder to remind them of their legal obligations.

ULGA developed reporting templates which LGs use to compile implementation reports. During the midterm review ULGA monitors implementation of set objectives. ULGA follows the sector guidelines on staffing, coordination and allocation of resources (formula), financial management system for the release of grants to LGs.

A photograph of a traditional thatched-roof hut, likely made of bamboo or wood, situated in a rural setting. The hut is surrounded by tall green grass and banana trees. The sky is blue with scattered white clouds. A semi-transparent white box is overlaid on the center of the image, containing the text "CHAPTER FIVE CONCLUSIONS AND RECOMMENDATIONS".

CHAPTER FIVE
CONCLUSIONS AND RECOMMENDATIONS

5. Conclusions and Recommendations

Based on the discussions from the preceding chapters, it is clear that the Government of Uganda has taken steps to ensure the fulfilment and enjoyment of the right to water and sanitation. Quite a number of steps have been taken at the structural, process and outcomes levels that demonstrate that the government is, to a large extent, on the path of progressive realization. Conversely, the study has also established a number of gaps at the structural, process and outcome levels that need attention in order for the current practice in the water and environment sector to get aligned with the HRWS norms and standards so that the government can progressively attain universal access to safe water and sanitation.

Section 5.1. provides highlights from the findings on the structure, process and outcome levels of analysis, in particular emphasizing areas for further assessment and enhancement. Section 5.2. provides the conclusions gathered from the evidence from all previous chapters on the Government of Uganda's Status of implementation and monitoring of HRWS paying close attention to the three types of obligations on States parties: obligations to *Respect*, obligations to *Protect* and obligations to *Fulfil*. Subsequently, Section 5.3. offers recommendations and possible areas of action that the government and in particular the Ministry of Water and Environment (MWE) and line ministries, can adapt to accelerate provision of safe water and sanitation to the currently unserved populations in Uganda.

5.1. Conclusions on the Structure, Process and Outcome levels of analysis

5.1.1. Structure level of analysis

Gaps in water and sanitation legal, policy and regulatory frameworks

In Chapter 1 the role of Parliament was elaborated with clear evidence of the kind of support that the water and environment receives or can access to promote the HRWS. It is also clear that although parliament provides support through legislation, adjustments are still needed and implementation by the executive is not adequate or efficient and frustrations are reported.

The legal analysis showed that Uganda that certain gaps must be addressed in order to comprehensively anchor the right to water and sanitation in the legal framework. While the Constitution contains important articles on procedural guarantees related to the realization of the HRWS, it was exposed that additional safeguards are needed in the laws to ensure their full realization and enforceability. For example, the principle of non-discrimination specifically in relation to water and sanitation is not sufficiently articulated in the legislative documents, especially the Water Act. The report also evidenced that Uganda's existing laws refer to the normative framework of the right to water and sanitation to a certain extent but the HRWS criteria are not comprehensively incorporated in water related acts and statutory instruments. Their partial articulation may lead to a failure to realize the right to water and sanitation for some people, or to a partial realization for others due to a lack of legal safeguards and obligations for State actors or service providers.

There are additional gaps in the legal and policy framework particularly at the level of enforcement and monitoring service delivery and provision under public-private partnership on water management and a policy framework to attract investors in the sector. For informal low-income settlements, there is no predictable public spending/budgeting targeted for the residents since there is no clear policy on delivery of services in informal settlements. So far there is no adequate anchor for private sector participation or a guarantee of security for their investments in sanitation.

Sanitation has no finalized sanitation policy but, as earlier mentioned, there is a first draft National Sanitation Policy document of 1997, which was prepared by the National Sanitation Task Force. There was no evidence found of this policy having been finalized and formalized. Although a summary of estimated costs by implementing agency for the implementation of the ISH strategy is defined, there is no clarity on how the 10 Year ISH 2006 has managed so far to set standards; monitor the planning and establish a budget process to track and ensure that all responsible institutions adequately budget for sanitation; monitor disbursement of sanitation funding and implementation of work plans; and ensure accountability.

On-site sanitation lacks basic standards and guidelines to support the provisions of services by the private sector at all levels of the sanitation chain and currently, health, environmental and occupational risks are evident leaving populations vulnerable. While there are clear guidelines on effluent, no guidelines were found on the management of the sanitation particularly the standards for pit latrines, emptying, transport, treatment and disposal of faecal sludge in Uganda.

In addition, there are no price regulatory arrangements for on-site sanitation services as emptying the current high prices are determined by individual service providers resulting in lack of affordability and illegal discharge into drains and the environment.

Mandates, Roles and Responsibilities for safe water and sanitation

Whereas the mandate for safe water supply is very clear and institutional arrangements are well defined, there seems to be a lack of comprehensive approach towards sanitation due to mixed mandates. Through the new role of the Office of the Prime Minister, better coordinated sector action, is anticipated. It is not clear however if OPM will be able to mobilize stakeholders to invest in agreed sector plans for sanitation to ensure universal access to safe sanitation and whether it will take accountability for delivery of sanitation for all in Uganda. For sanitation steps such as the recent Uganda signing the Ngor Declaration (at AfricaSan4 in May 2015) promising universal access to adequate sanitation and hygiene services and the elimination of open defecation by 2030 are important for the realization of HRWS in Uganda – but needs an institutional anchor.

There were no comprehensive authoritative status reports of sanitation in the country. This research did not find adequate information that clarifies who is tasked to officially provide information on sanitation to the government, development partners, donors, civil society, the communities, service providers, consumers of the sanitation services. Although this is reported by the different mandated government sector, there is no harmonized report that is shared on sanitation e.g. subsidies for the poor or on the legal requirements for self-provision of sanitation services.

5.1.2. Process and Outcome levels of analysis

Differentiation in the national standards for accessibility

There is skewed access to water and sanitation based on geographical considerations – the current government provision of water supply to urban and to rural populations is realized through two different approaches based on the contexts. For rural communities, access, availability and safety/quality aspects are not guaranteed for all the population. Access to pit latrines should be improved for all communities including those in the North and North Eastern parts of the country.

The research from the sample districts pin-pointed the need to ensure non-discrimination for special groups like pastoralists who need special considerations in the manner in which water services are delivered. Access to water for pastoralist communities involves access to water for both humans and livestock. During droughts sources of water especially surface water dry out and access to water points such as boreholes and wells becomes more important to avoid shortages of water supply for humans and livestock.

There is need for comprehensive planning for new sources of water; maintenance of traditional water sources; Educating people on hygiene and sanitation; Planning for contingencies; and updating an inventory of existing water sources and use as a tool to plan water interventions. There is currently inadequate community participation of pastoralists in water governance and especially women as key water users. According to the IS CER Shadow report 2015 a number of groups including the Batwa, IK, Basongora, Banyabindi and Benet have been marginalized as regards access to socio-economic goods and services.

Sector data collection and monitoring

The Government of Uganda considers monitoring, evaluation and reporting (ME&R) as a key component of all national development programs. The MWE sector is known as one of the best performing sector in the country due to its robust performance measurement framework. The review of Uganda's measurement framework shows tremendous effort have been made to define targets and monitor progress through very well established mechanisms defined for the sub-sectors on MWE. For water supply and sanitation the golden indicators guide the monitoring of the service standards. Monitoring on access to water and

sanitation has therefore improved tremendously over the last two decades, but that the recognition of water and sanitation as a human right requires a reassessment of both the planning and the monitoring frameworks.

Although there are clear structures for district level water and environment sector monitoring including capacity support from TSUs, sector analysis still seems to be centralized which causes delays and sometimes backlogs (e.g. for schools WASH data) in data analysis. At DLG level, there is lack of a harmonized approach for collecting and collating data that is needed for better and more immediate and planning and targeting those groups or areas that do not have access within the districts that could enhance progressive realization.

More linkages are needed with related sectors and with the Uganda Bureau of Statistics (UBOS) to further disaggregate some of the data in order to better align the development, sector and global targets for safe water and sanitation in Uganda. As such a revised framework is needed that would enable greater focus on and sensitivity towards elements such as vulnerability and marginalisation on the one hand, and sustainability on the other hand as well as greater coherence with the existing commitments of Uganda.

In the ENR sub-sector, the ENR-CSOs need support to revise the data collection tool to make it simpler so that members can easily use it for regular reporting. Such a revised tool would be utilized for improved annual data collection from members as they report their performance and contributions to the Environment and Natural Resources sector. The processes of validating data from CSOs is not yet clearly defined but is necessary if it has to be effective for the MWE annual sector performance reporting. A key gaps related to reporting that ENR-CSO identifies is the fact that the government Annual joint sector reporting is quite qualitative.

None of the intended 36 `actions` of the 2006 Pro-poor Strategy, for instance, are designed as action points hence the challenges which have culminated in the lack of implementation of this strategy. The World Bank report (2015) confirms that “although the actions in the strategy are specific, they are not stated in a way that is measurable” nor are there targets or milestones against which to evaluate progress. There is also no plan for monitoring and reporting on the strategy’s implementation and achievements as evidenced in the sector monitoring and reviews done for the urban sub-sector which have since introduced no new indicators in the current sector performance framework to directly accommodate the actions presented in this strategy.

The DWSCG allocation formula for instance does not incorporate adequate equity indicators and leads to some districts with higher water coverage than the national average still receiving a higher allocation than districts with low indicators. It was proposed during the consultations that parliament needs to revise the formula in order to promote equity and to define better targeting and prioritization of the unserved within the districts and sub-counties. In its legislative function Parliament has a crucial role to play in promoting equity in the allocation of resources - taking into account the diversities and dynamics of different demographic groups, geographic locations and geo-economic activities among others.

Capacities

The tendency to multiply the number of districts decreases efficiency by increasing the challenges of insufficient technical and managerial capacity, declining local revenues, and weak management, thereby contributing to gaps in coverage and quality of services and infrastructure. With the expansion of the districts to over 112, capacity is being fragmented and skills that were built up at the district level are being disbursed. It is important to build and strengthen capacities for planning and management of implementation of water supply and sanitation services.

It is also apparent that furthering the knowledge of the available means to hold duty-bearers accountable for failure to protect, respect and fulfil rights as well as monitoring of water infrastructure and water resources management at the district and lower levels is needed.

More specifically, support to districts is required on issues of enforcement and development of a comprehensive communication and advocacy strategy that enhances compliance and strengthen the interface between enforcement agencies, key environment institutions and the public.⁴⁶²

Sustainability

At the level of the environment, despite the fact that the Government of Uganda has put in place strategies and plans to promote sound environmental management, the quality of the environment continues to decline. This serious trend of environmental degradation must be addressed.

The effectiveness of investments in rural water supply, under decentralization, should not be judged purely in terms of increase in safe water coverage because to achieve long-term sustainability of the facilities constructed, some of the funds have to be invested in aspects of training, capacity building for staff and WSCs, orientation of districts staff into their new roles, management of contracts and sensitization of district and other lower local government councils. These aspects do not result in physical increase in safe water coverage but are key to the success of decentralization. The current % allocated to software component is reported as too minimalistic to be able to effectively address these capacity strengthening components which would enhance sustainability.

5.2. Conclusions on the Government of Uganda`s Obligations to Respect, Protect and Fulfil

5.2.1. Obligation to Respect HRWS

The obligation to respect has been discussed at the level of non-discrimination as it relates to the outcome indicators for accessibility, availability, affordability and quality. This summary captures evidence of i) arbitrary or unjustified disconnection or exclusion from water services or facilities; (ii) discriminatory or unaffordable increases in the price of water; and (iii) pollution and diminution of water resources affecting human health e.g. through ineffective sanitation practices and management or other forms of pollution of water sources.

At the legislative level, failure to comply with the obligation to respect the right to water and sanitation may consist in articles of law that interfere with the exercise of the right. One example, which is related to the affordability principle, is that currently the capacity to pay of a user disconnected from water services does not have to be taken into account before disconnection. Arbitrary disconnections should not be allowed under law and clear procedures are needed to ensure that such disconnections do not occur. In addition, failure to adequately articulate the affordability principle in the law can lead to unaffordable increases in the price of water and therefore an interference with the right of an individual may occur.

Under the HRWS framework any payment for water services has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Furthermore equity demands that poorer households should not be disproportionately burdened with water expenses as compared to richer households.

In Uganda it is established that the NWP 1999 supports the principle of non-discrimination and calls for equitable service delivery and the research shows that the MWE has taken a strong stance to address the inequitable distribution of rural water services between districts by more effectively targeting funds to the unserved and underserved parts of the country. It was, however, found that better characterization of the areas and groups that currently do not have access to safe water and sanitation is needed in order to ensure more targeted prioritization of the unserved and underserved in Uganda and to better reflect progressive realization of HRWS.

A review and update of some of the policies and strategies especially the overall NWP 1999 framework may be necessary since a lot of critical aspects that are necessary to adequately support the equity implementation given the increased role of the private sector, changes in institutional re-arrangements, so that there is sufficient and up-to-date cross-references to recent development plans and policy objectives,

⁴⁶² *The State of Forest Governance Study*, 2014 cited in <http://enr-cso.org/wp-content/uploads/2014/12/ENR-CSO-Performance-Report-FY-2013-2014.pdf>.

and to adequately articulate the aspect of climate change and many other developments that occurred or gained importance since 1999 are all not reflected in the NWP, 1999. Such a review can give consideration to aspects of the HRWS to water that support the obligation to respect the HRWS as elaborated in the different sections of this report and as captured in some of the recommendations in the Action Plan.

5.2.2. Obligation to Protect

The conclusions on the obligation to protect have considered the discussions and information collated on evidence on such issues as i) situations where the existing laws related to the right to water and sanitation are not being enacted or enforcement is not adequately effected on issues of water quality to, for instance, prevent the contamination and inequitable extraction of water; (ii) ineffective regulation and control water services providers; (iii) failure to protect water distribution systems (e.g., piped networks and wells) from interference, damage and destruction.

Currently, the Water Act authorizes use of water and access to water sources but does not enshrine articles that would ensure the realization of the right to water and sanitation for everyone. Once a water and/or sewerage authority is established in a water and sewerage area, one of the authority's function is to provide water and sanitation services, as required in the performance contract or declaration establishing the authority. It is however important that adequate water supply and sanitation services are offered in all water and sewerage areas. To this effect, the law should already encompass guidelines, standards or criteria that must be followed by all authorities and which may be further specified or adjusted in each performance contract, to the extent permitted by law. This would simultaneously set effective regulations of service providers.

The accessibility component should be also particularly looked at in the realization of the right to water and sanitation for persons who face accessibility problems. The Persons with Disabilities Act attributes the responsibility to provide universal standards or designs of public toilets to all organs in public and private institutions. This clause however does not clearly require that all appropriate institutions provide for the accessibility to toilets and sanitation facilities to persons with disabilities in accordance with universal standards. To better protect the right for persons with disabilities, it is important that the law also requires third parties to take actions, such as provide accessibility in private institutions but also require third parties to ensure the right to water and sanitation and the right's different components.

In line with the General Comment No. 3 (CESCR, 1990), which states that even in times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programmes. In the MWE DWD a sector performance indicator on equity is defined - Golden Indicator No. 7 as "*the mean sub-county deviation from the district average in persons per water point*". This is specifically intended to promote provision of equal opportunities for the water supply delivery service and minimize differences between groups of people. However the obligations to protect and fulfil are not being observed as confirmed in the MWE SPR 2015 "District Local Governments can only implement low cost water supply technologies in those areas where they are feasible leaving out the water stressed sub-counties." As elaborated in this report, equity in provision of water services in DLGs "is undermined by political interference in the allocation of new safe water sources as well as insufficient knowledge of DWOs on their sub-county coverage rate differences" (SPR, 2015 pg.55).

The promotion of rainwater harvesting (RWH) by MWE for instance as one of the low-cost technologies in areas where groundwater levels are low or where water quality is poor does not provide measurement indicators for ensuring water quality for rain water. Additionally, there is no coherent business planning tool for low-cost technologies for both water supply and sanitation technologies that effectively captures accessibility, availability, affordability and safety. While the intention is good, in practice given that community participation in decision-making processes that determine low-cost technological choices is quite low, the poor and vulnerable groups and areas do not seem protected particularly from high O&M costs and questionable quality of water and sanitation services. Besides RWH is not necessarily a low-technology choice for the poor and should not be implemented without the principle of acceptability *i.e.* determining the willingness and ability to pay. Clear policies to enable allocation of necessary financial, institutional and human resources for promoting affordable technologies for increased access to safe water for domestic use are lacking.

Furthermore, under this State obligation to protect, it is worth noting that the planning, implementation and monitoring of sanitation is quite lacking. There is currently no measurement under the golden Indicator framework that ensures that populations or individuals do not suffer as a result of other people's bad sanitation practices. The sanitation services defined for schools for instance in rural districts have no guidelines or strategy for pit-emptying and disposal. There is no direct budgetary allocation for this and no clear standard plan for the procedure for faecal sludge evacuation.

With respect to regulation, MWE has operated for a long time without an independent regulator for the water and environment sector. A Water Utility Regulation Department is established within the Department of Water development with the MWE. The current regime of regulation is by contract for the town water supplies under MWE's jurisdiction, where Performance Contracts set out the service standards required. Actual performance is monitored through quarterly reports and field verification visits with performance and management contracts used to ensure the commitment of the MWE Small Towns to improving utility performance and service quality. The utility for large towns' water supply and sewerage services - the National Water and Sewerage Corporation - is regulated through the performance contract under which NWSC submits quarterly performance review reports which are analysed for comment and feedback by the Performance Review Team (MWE-PRT). As confirmed in the SPR, 2015,

One of the major challenges still facing the urban water and sanitation sub-sector is the inadequate framework for effectively regulating the sub-sector to improve service delivery while protecting the interests of consumers as well as those of the public and private parties. Areas of weakness that have been identified include, but are not limited to: contract management/compliance, performance monitoring and evaluation, water quality monitoring, penalties, sanctions and rewards systems, dispute resolution mechanism, increasing transparency and accountability in the sector, pro-poor interventions, assets and investments management and tariff setting and adjustments.

It is clear that the government is failing in the obligation to protect since the current regulatory mechanism WURD is ill-equipped/under-resourced, has to rely on out-sourcing services and is overwhelmed due to the ever-increasing number of urban water authorities. Hence current regulation does not have the capacity or ability to supervise and monitor urban water performance. The result of the government not meeting this obligation to protect due to lack of proper regulation is that:

the number of disputes and complaints from Water Authorities and Private Operators being reported to WURD is increasing, and the Department's capacity to attend to all these disputes is insufficient. There is therefore a backlog of unresolved cases. It is largely dependent on a manual system which gives rise to severe communication and logistical challenges (time spent on travel to/from MWE Small Towns, inadequate transport facilities for field visits). There are also challenges with getting performance data on time and of sufficient quality (MWE, SPR, 2015).

It is, however, important to note that the government has taken concrete steps to address this gap and a new legislation for setting up this independent regulatory authority is already drafted and being considered by parliament. In the interim, it is necessary to strengthen the regulation of water services in order to safeguard the interests of the poor in large and small towns. It is for instance not clear how small scale providers of water (tankers) are regulated to prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water.

For water source protection the Water Source Protection Guidelines (2013) exist, but have not yet been implemented. The guidelines have no defined arrangements on how funds generated through water infrastructure projects (3% of its budget meant for use in catchment/source protection) are to be managed and utilized have not been developed.

5.2.3. Obligation to Fulfil HRWS

The evidence of the Government's efforts to fulfil the HRWS is summarized under evidences of i) legal, policy and institutional frameworks; ii) public expenditure or sector allocation of finances; iii) sector monitoring of water and sanitation; iv) non-discrimination (including equitable distribution of water

facilities and services); v) steps for emergency relief vi) definition and application of national minimum standards; vii) respect for legal obligations in intra and transboundary water quality and quantity -related decisions.

At the level of improving its legal frameworks as well as in the national policies and institutional frameworks for water service delivery in both urban and rural areas, Uganda has made major progress and the evidence of the HRWS elements seem compatible with international legal obligations in relation to the right to water. There is evidence of relevant reform process achieved in the last two decades for instance in the introduction of the Water Statute/Act (1995/1997), the Uganda Water Action Plan (1995) the Local Governments Act (1997, 2000) and key policies like the National Water Policy (NWP, 1999). The main legislation that supports the implementation of the NWP, 1999 includes the Water Statute/Act (1995/1997), the National Environment Act (1996) and the National Water and Sewerage Corporation Act (1995).

These reforms are vital in the realization of the HRWS in Uganda since they integrated key principles and service delivery modalities which this analysis identified as relevant and supportive of some of the HRWS norms and criteria:

Participation e.g. through increased sector-wide coordination and consultation. For instance, the Water Act specifies the need to provide water and sewerage services in consultation with appropriate public authorities and relevant groups. In the NWP, 1999, the sector also aims *'to manage and develop the water resources of Uganda in an integrated and sustainable manner, so as to secure and provide water of adequate quantity and quality [...] with the full participation of all stakeholders; and*

Non-discrimination and equity which is evident in the decentralization of implementation which saw improved flow of resources to local government levels; introduction of demand-driven approaches; a strengthened focus on 'software', behaviour change and community management of services; and integrated water resource management. However despite these reforms there are still apparent gaps as identified and outlined throughout this report.

Despite the noted progression in the form of legal and policy reforms, this research has of course identified some critical elements that are not well articulated that would impact on the full realization of the HRWS which are discussed below.

One of the key aspects of the obligation to fulfil is the sufficient recognition of the right to water and sanitation within national systems, preferably by way of legislative implementation. As noted in the preceding chapters, the main substantive standards of the right exist but they are not clearly or comprehensively anchored in law.

Discrimination, for example, is clearly prohibited by the Constitution, but the principle of non-discrimination does not appear in water-related laws. Those laws do not require specific institutions to take into account the situation of marginalized populations in the realization of the right to water or to adopt affirmative programmes designed for minorities. While those institutions may nevertheless take such actions, enshrining a legal obligation for this purpose would ensure that it may be enforced.

Similarly, the **participation** principle is articulated in different laws. However, the wording of the provisions refers sometimes to a direct obligation and sometimes *only* to a principle. Although the level of consultation may vary, the legal framework should ensure active, free and meaningful participation by all in the provision of water and sanitation services regardless of the services provider. The law should therefore articulate the stages of participation and set up clear positive requirements for public participation which would be applicable to all water and sewerage authorities. For example, ensuring that appropriate language is used and meetings are held in locations that can be easily accessed by all are key elements that can be applicable to all authorities in order to ensure active and meaningful participation.

It should be noted that the government has aligned these changes with **institutional** adjustments through redefinition of roles and responsibilities within the former Ministry of Water, Lands and Environment (MWLE), currently the Ministry of Water and Environment, which has 3 distinct directorates responsible for water development, environmental affairs and water resources management.

Despite these efforts, the institutional framework for sanitation remains much less defined, with split mandates across three different ministries, MWE, Ministry of Health and Ministry of education and Sports. In accordance with the obligations under the HRWS framework, the government de facto has an obligation to establish competent institutions and appropriate institutional arrangements to carry out the national strategies and programmes that support access to water and sanitation.

During this research it was confirmed that the government, through the Office of the Prime Minister (OPM) is working closely with the National Sanitation working group (NWSG) to address the current lack of leadership for sanitation and to identify ways in which a revised terms of reference for the shared sanitation mandates can promote better accountability for delivering sanitation and to ensure prioritization in planning.

Progression in sector coordination is also notable as a means that the government has applied to ensure harmonized planning (especially for financing the sector) and for integrated implementation and monitoring at national and decentralized levels. Improved sector finance coordination contributes maximization of resources in line with the guidance provided in the General Comment No. 15.

It is noted that the Ministry of Finance Planning and Economic Development (MoFPED) introduction of Sector Working Groups (SWGs) across government, is an effort to strengthen strategic resource allocation for the budget process and to discuss issues arising out of implementation that have policy implications. Additionally, introduction of coordination mechanisms such as the Joint Sector Review, the Joint Assessment Framework (JAF) are evidence of participatory processes through which partners influence decisions on disbursements to government targets and in ensuring relevance between sector actions and outcomes through discussions and consensus building on details of sector policies and on progress review.

These financing and sector planning coordination efforts have the potential to promote the [targeting and prioritization](#) of the unserved populations as part of what the government needs to do to define immediate actions to reach the most vulnerable and marginalized or needy groups or areas.

The review of the trends in domestic development finance to establish evidence of progression in water and environment national budget allocations for water and sanitation shows that the government considerably increased domestic budget in relative and absolute terms from 1998 to 2004 (ODI, 2011); For instance, between 1997 and 2002, government budget allocations to WSS rose from just over \$3 million to \$31 million; or from 0.5% to 2.8% of the government budget over the same period. Much of this was allocated to rural WSS where majority of the unserved and poor populations reside. There are nonetheless financial bottlenecks, and government allocation has declined more recently, restricting further progress.

Complementary to the principle of progressive realization is the principle of “non-retrogression”. Inherent in the principle non-retrogression is the obligation of governments to show that acceleration of access to safe water and sanitation continuously shows a forward step in achievement. Retrogression by definition would imply for instance reversal of decisions in action plans, processes of planning (including budgeting), and implementation and should not happen. Any intentional or unintentional steps backwards without a justifiable reason in the enjoyment of the HRWS is in fact retrogression.⁴⁶³ This study confirmed that the sector resource allocation to the water and environment sector has been declining.

Progressive realization cannot be established without a clear measurement framework. Uganda has defined a framework around a set of 11 Golden Indicators which together with other conditions of reporting has enabled an increasingly sophisticated review of sector performance and provided a platform on which all sector stakeholders are able to analyse the progress and challenges in a comprehensive manner. The monitoring process and the Golden Indicators have strengthened the strategic focus of sector debate and contributed to decision making and strategic planning – such as through the SSIPs. It has also improved information flow between the different levels of government and stakeholders.

This notwithstanding, assessed against the HRWS framework the current sector monitoring framework may be found wanting due to a number of gaps at the level of adequacy of current indicators to effectively

⁴⁶³ CESCR General Comment No. 3 The Nature of States Parties Obligations 1990. Quoted in *Keep your Promises Campaign – Guide to the Human Rights to Water and Sanitation* (2014).

deliver on the outcome indicators. This may thus call for redefinition of the indicators or introduction of new parameters through UBOS data in order to fully align with the HRWS norms and standards for water and sanitation and to ensure enjoyment of the right to water and sanitation.

It should be remembered that the obligation to *fulfil* needs to be understood as constituting government obligations to facilitate, promote and provide. The obligation to facilitate includes taking positive measures to assist individuals and communities to enjoy the HRWS. The obligation to promote obliges the government to take steps to ensure that there is appropriate education concerning for example the hygienic use of water, protection of water sources and methods to minimize water wastage.

In conclusion, General Comment No. 15 paragraphs 48 and 49 provide sound principles for States to consider in order to fulfil the HRWS highlighting that the national water strategies and plans of action should consider in both formulation and practice:

- the principles of non-discrimination and people's participation;
- the right of individuals and groups to participate in decision-making processes that may affect their exercise of the right;
- Individuals and groups being given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.

In addition, plans of action for realizing the HRWS need to be based on the principles of accountability, transparency and independence of the judiciary, since good governance is essential to the effective implementation of all human rights, including the realization of the right to water. Given the multiplicity of stakeholders and instruments for delivering water supply and sanitation services, the government needs to take appropriate steps to ensure that the private business sector, international development partners and civil society are aware of, and consider the importance of, the right to water in pursuing their activities in Uganda as this will greatly contribute to the progressive realization of the right.

5.3. Recommendations and Action Plan

5.3.1. Background to the Recommendations

While the overall national legal and policy framework has made relevant provisions which are aligned with the HRWS norms and standards and which respond to a large extent to the procedural guarantees, there is recognition in a lot of the reviewed literature that some areas in Uganda still have very low physical, social and economic accessibility to safe water and sanitation. The following recommendations are therefore summarizing some of the identified gap areas that would need attention in order to effectively reach the unserved and underserved populations of Uganda. The proposals will be relevant in enhancing the government's efforts in progressive realization of the HRWS and in its duty to respect, protect and fulfil the human right to water and sanitation in Uganda in accordance to the international and national commitments. These recommendations have been translated into an Action Plan which was discussed and agreed with MWE and sector partners on 27th October 2015 during the presentation of the research findings. The Action Plan was further refined and reviewed by the MWE Project Steering Committee and therefore presents a revised edition.

Four broad recommendations have emerged from this research findings namely:

1. **Enhanced Legal Framework:** Consider legal options that will address gaps identified in the current legal framework for enhancing the enabling environment for HRWS compliance and delivery in Uganda;
2. **Harmonized National Standards:** Revise current national water, sanitation and hygiene standards and the sector performance measurements to align with HRWS norms and service criteria and the SDG goals/targets;
3. **Baseline Analysis and Target Setting for HRWS Implementation:** i) Establish a baseline with clear disaggregated data of the unserved areas and groups based on the specification of minimum core obligations with respect to substantive and procedural rights that apply nationally irrespective of

rural/urban divide; and ii) Define a Targeted Strategy for Progressive Realization of Safe Water and Sanitation for all; and

4. **Accountability:** Review the current Governance Framework to promote accountability and independent regulation to support enforcement of norms and standards that will accelerate universal access. Expedite the process of setting up the independent regulator.

RECOMMENDATION 1: Enhanced Legal Framework

Consider legal options that will address gaps identified in the current legal framework for enhancing the enabling environment for HRWS compliance and delivery in Uganda

Uganda has made great progress in ensuring that its national legal framework complies with international human rights law. Ensuring access to clean and safe water is in fact part of Uganda's national objectives and directives of state policy that are found in the *preamble* of the Constitution. Chapter 2 of this report however explained that because the HRWS is not directly incorporated in the fourth chapter of the fundamental law, the section of access to water does not have the same strength as other rights listed in Chapter four of the Constitution. Until recently, economic, social and cultural right were still reported as being not enforceable. The Water Act nevertheless contains a right to use water as well as other sections that refer to the criteria of the right. Enshrining an explicit enforceable clause on the human right to water and sanitation in the legal framework, such as in the Water Act, would further anchor the HRWS in the law.

In spite of not containing such explicit clause on the HRWS, the legal framework covers each of the HRWS criterion and related procedural guarantees to various extents. In order to characterize the right adequately, the legal framework should further comprehensively articulate the framework for implementation of the HRWS and thereby each of the right' criteria.

Uniform normative content of the HRWS. Currently, the Water Act specifies that one of the water and/or sewerage authorities' functions is to provide water and sanitation services, as required in the performance contract or declaration establishing the authority. To ensure consistency and coherency between the various water and sewerage areas, the law should already encompass guidelines, standards or criteria that would have to be followed by all authorities. These could include for example defining accessibility or the minimum amounts of water for availability. Further specification or adjustment could be made in each performance contract, to the extent permitted by law. This gap could be addressed through the adoption of statutory instruments containing such standards or criteria, or the Water Act could be adjusted to this effect. The normative content of the right would be thereby characterized in the law, which would ensure more effective enforcement.

A framework for the regulation of the prohibitions, discontinuations or restrictions related to the use or consumption of water supplied is also needed to ensure sufficient and continuous supply of water for domestic purposes. In addition, it is important that the law protects users from arbitrary disconnections from water and sanitation services. The fact that the Water Act allows water and sewerage authorities to disconnect users from water works without taking into account the users' capacity to pay may lead to arbitrary disconnections. Disconnections due to a lack of financial means should in fact not be allowed by law when, as a result, the affected persons are deprived of the minimum essential level of water. The affordability principle, as understood under human rights law, needs to be therefore articulated in the law and clear procedures that integrate both the ability and willingness to pay aspects adopted.

Universal coverage. Through the Sanitation and Water for All Global Framework for Action, Uganda has agreed to provide additional support to "increase access for the poorest and most vulnerable households, to ensure socio-economic benefits are spread equitably among the population." Further, Uganda has widely recognized the importance of non-discrimination through its ratification of many human rights treaties. At the national level, the Constitution prohibits discrimination and the Persons with Disabilities Act as well as the Children's Act call for non-discriminatory measures, some of which can be linked to water and sanitation services. As for the Water Act, it aims to promote the provision of water supply for domestic purposes to all persons. In order to fully articulate universal access and non-discrimination in the law, it would be appropriate to specify directly in the Water Act that providers of drinking water and sanitation services may not discriminate between users in the provision of services; this means that water and sewerage authorities and service providers would also have to take into account the existence and needs of all groups of persons within areas of service delivery. These groups would first need to be defined. To this effect, the law could enshrine an obligation to define criteria to be used for identifying and characterizing the unserved or the marginalized.

Access to information and participation. Under international law, the HRWS requires States to articulate the stages of participation. Public participation is found in the Water Act, but more emphasis is needed to align with the HRWS principles. It can be noticed that the language used in the legal framework refers sometimes to a direct obligation and sometimes to a principle. Although the level of consultation may vary, the legal framework should ensure active, free and meaningful participation by all in the provision of water and sanitation services regardless of the services provider. In relation to sanitation, the design of facilities, for example, requires to take into account the public's needs. For this purposes, the law should articulate requirements for appropriate stakeholders, namely water and sewerage authorities and local governments, to invite the public to submit comments on strategies and plans regarding water and sewerage services and to ensure that due account is taken of the outcome of the public participation before the adoption of key documents or decisions. Regulations may be also used to specify the consultative management of communal water supply and sanitation services.

In terms of access to information, the right to access information is granted in the Constitution and reaffirmed in other laws. Access to information also means that suppliers of water and sanitation services inform users on all circumstances that may have possible negative impact on their enjoyment of HRWS. Although the Water Act already captures the importance of access to information in relation to various specific scenarios, it is also important to ensure that it provides a regulatory response for unforeseen scenarios. The law could require all relevant actors, including local governments and water and sewerage authorities, as appropriate, to publish all information on circumstances impacting on users' well-being, that may have possible negative impact on their enjoyment of HRWS or that are posing a threat to health. Particular arrangements, including appropriate channels, may be needed to secure access to information for persons with hearing impairments, the illiterate or other person with disabilities. Up to date legislation should be also easily available to all to ensure that all citizens are aware of their rights and obligations and through trainings, workshop and dissemination of information, citizens and other actors may be proactively empowered to demand/provide for those rights.

Reinforcement of affordable remedies and mechanisms. Based on the international human rights framework, individuals or groups who allege that their rights have been violated should have access to effective remedies at both national and international levels to have their complaints heard and solved. The current legal framework grants a right to apply for redress and a right to apply to a court against administrative decisions. The legal framework also gives powers to important institutions or bodies to bring actions against persons who are acting in contradiction with certain provisions of the Water Act, the Public Health or the Environment Act, all of which refer to the WASH sector. To better ensure accountability in relation to water supply and sanitation services, the public should be also entitled to take actions when their rights have been allegedly violated. Ensuring the accessibility (financial and physical) of effective domestic remedies to all is key. This can be addressed by inserting provisions for this purpose in water related laws and establishing clear procedures for customer complaints specifically on water supply and sanitation services. In general, oversight responsibilities for specific actors should be also framed to ensure better accountability in the sector. In addition to the obligation for water and sewerage authorities to report to the Minister responsible for water and natural resources on their achievements, it is important to adequately articulate the obligations that relate to effective regulation and control of services providers.

Practical application of the human right to water and sanitation. In light of the evolving approach towards economic, social and cultural rights in Uganda, there is a need to ensure that these rights, including the right to water and sanitation, are understood by all relevant authorities as well as rights holders. Targeted trainings and workshops are therefore needed for all relevant stakeholders to enable them to understand the practical application of the HRWS. These should be tailored for those in charge of service delivery, law makers, relevant government departments and institutions that address human rights as well as water and environment sector ministries responsible for water and sanitation at national and decentralized levels, civil society, parliamentarians and other legal actors, such as the UHRC, the Uganda law society, the Law Reform Commission, judges, among others.

RECOMMENDATION 2: Harmonized National Standards

Revise current national water, sanitation and hygiene standards and the sector performance measurements to align with HRWS norms and service criteria and the SDG goals/targets

While provisions made in the Uganda Vision 2040 conform to some of the HRWS principles, the sector performance measurements are not fully aligned with the standards in this Vision document (for instance, on the principle of availability) and with the HRWS principles.⁴⁶⁴

At the same time, more rigorous monitoring, beyond completion of investments and supervision of functionality, would ensure adherence to minimum service standards and long-term effective contributions to access targets. The HRWS monitoring should show progressive realization - the incremental improvements to service levels in line with available national resources which subsequently impacts on the planning for better targeting and prioritization. When assessed against the HRWS framework for universal access, the current sector monitoring framework has most of the norms and standards but clearly has some gaps as well. In the current Golden indicators, there is a confusion between government obligations and realization of the rights: MWE is measuring the sector process indicators - tracking the process and structural indicators but the outcome indicators (that elaborate the level of enjoyment of the right) against HRWs are not effectively being measured.

The review of sector documents revealed that in some instances, there are different sets of service standards for monitoring defined based on existing geographical or administrative disparities in service level delivery in the different settings for rural and urban settings. While this may make sense for certain parameters, it is important that the national universal minimum standards are based on global guidelines and standards. Alignment of national standards with the universal substantive standards of the right in the sector policy for water and sanitation would be a good starting point if monitoring is to be assured. This calls for a comprehensive review of the national standards for safe water and sanitation as provided for in different development and sector policy and strategic documents, to ensure harmonization of the national standards.

This study has undertaken a review of the current MWE/DWD performance measurement framework, summarized in the table below with highlights on the areas that need refinement. This only provides an initial review of the specific indicators, the table below provides the initial review highlighting areas where gaps exist and providing indication of where changes and further disaggregation would be required. This refinement of sector progress measurement indicators will not only conform to the provisions made in the Uganda Vision 2040, but serve to align the progress measurement with the HRWS principles as well as provide an effective response to the new Sustainable Development Goals (SDG) Goal 6 indicators and target of universal access by 2030.

Necessary indicator refinement means better alignments within existing sector targets and indicators for instance, the Golden Indicator No 1 and 2 on access and functionality which in practice monitor availability. The availability criteria and standard is mentioned in the Uganda Vision 2040 document which estimates the average water consumption of 2010 at 26 m³ per capita and sets the objective of 200 m³ per capita for 2040. The NWP 1999 defines availability and includes other aspects of access such as distance, time taken to alternative sources and number of users. However, these standards are missing at the actual levels of service delivery and are not clearly articulated in the performance and management contracts and hence are missed in the regular reporting. This can further be illustrated using the Design Guidelines for Water Supply Infrastructure which estimates water demand respectively for house connection at 50 to 200 litres/capita/day, for yard tap at 20 to 40 litres/capita/day and for public stand-post at 5 to 25 l

⁴⁶⁴ The availability criteria and standard is mentioned in the Uganda Vision 2040 document which estimates the average water consumption of 2010 at 26 m³ per capita and sets the objective of 200 m³ per capita for 2040. On the other hand the Design Guidelines for Water Supply Infrastructure estimates water demand respectively for house connection at 50 to 200 litres/capita/day, for yard tap at 20 to 40 litres/capita/day and for public stand post at 5 to 25 l litres/capita/day. This consumption rate expected for public standpipes falls short of the international minimum requirement of 20 litres/capita/day.

litres/capita/day. This consumption rate expected for public standpipes falls short of the international minimum requirement of 20 litres/capita/day.

Other indicators such as the Golden Indicator No. 5 on water quantity (with reference to water for production) offers no indicator measuring quantity for domestic and personal use. This is irrespective of the fact that the water quantity standard is actually defined in the development and sector policy documents and in national standards. In general, therefore, it appears difficult to determine if the level of coverage that is reported in the Joint Sector Report (JSR) really captures access at the individual access and actual usage levels and hence there are some unanswered questions on continuity of supply, quantity of water available to individuals per day; amount of time spent to access water; actual costs in the different geographical settings (urban, rural, peri-urban). Furthermore, safe water availability cannot be effectively addressed without discussing the issue of continuous supply which captures both financial, institutional sustainability, related to management model, and the environmental sustainability, related to the conservation and protection of the ecosystems that secure freshwater.

The conclusion is that the unserved, vulnerable and marginalized groups will need to be statistically defined and monitored to reinforce the principle of non-discrimination and for the government to effectively interpret the progressive realization of the HRWS.

Given the decentralization of services delivery in Uganda, defining, collecting and verifying data from districts has a direct impact on equitable financial planning and capacity building especially with the creation of new districts. The allocation formula uses data on access for instance to calculate the financing going into districts. Without the right and comprehensive definition of this accessibility, availability, affordability and safety indicators, financial targeting may remain misleading. Verification of data and use of real-time data would need to be strengthened. The current monitoring framework utilizes too much formula calculations and below are examples of how vital aspects of the HRWS are missed due to insufficient levels of disaggregation.

As earlier discussed, there is inadequate information on the potential sustainability of water facilities and key background indicators that can be used to assess the reliability, the actual levels of water services being delivered to the population in rural areas, user satisfaction and technical backstopping to service providers among other aspects including regulation of WASH services and infrastructure. Some of these gaps have to be bridged through refinement or introduction of HRWS norms and service standards compliant indicators through UBOS (DHS) data e.g. Indicator No. 1 lacks parameters for water availability (e.g. continuity of water supply). Clearly Indicator # 1 and 2 are based on ``inventory assessment `` and spot-checks and less on key aspects of regular functionality and compliance to national water availability, quantity and quality standards. The per capita applicable standards that reinforce HRWS compliance are therefore not sufficiently articulated in these indicators.

More details on the Golden Indicators are provided in the table below with specific recommendations on the areas that will need further refinement.

Table 12: HRWS Analysis of the Golden Indicator - Current Provisions, Gaps and Recommendations

Golden Indicator	Current Provisions	HRWS Gaps	Recommendations
# 1: Access % of people within 1km of an improved water source	Provides information on access to water.	<p>No data on availability and per capita water quantity per day;</p> <p>No data reporting on distance (the criteria within 1 km is respected when constructing the boreholes)</p> <p>Access indicator is defined in a limited sense and is therefore only equivalent to coverage (access rights not being adequately measured).</p> <p>Two types of standards in measuring access in urban and rural = this is discriminatory esp. the distinction on</p>	<p>Within a human rights framework 20 l/p/d is a minimum core obligation for emergency situations and therefore any situation below this minimum does not comply with human rights. This should be the GoU's minimum standard and continuity of supply should at least permit access every 24 hours;</p> <p>Given the rural-urban standards for access, a review of the indicator parameters is necessary if the current formula calculations is to reflect reality;</p>

		<p>standards on time spent on collecting water.</p> <p>No reporting in this indicator for peri-urban and informal settlements in this urban-rural reporting of this indicator</p>	<p>This access indicator needs to disaggregate further to show the service standards beyond coverage rates.</p> <p>There is need to have the extra parameters/indicators = further disaggregation in UBOS data collection system to ensure information exists in the formal national data collection processes.</p> <p>MWE further collaboration with UBOS to have clarity of indicators that are HRWS comprehensive to cover access adequately.</p> <p>A distinction in the indicators is needed between piped into HH or dwellings and the other improved water sources. In the case of piped to HH/dwellings, the current indicator does not report on availability/continuous flow especially as rationing is rampant and water quality is likely to be compromised with the urban population relying on tankers for access.</p> <p>Need to distinguish the reporting by areas and groups areas and how access in these different contexts is being realized if effective targeting of the unserved is to happen. Overall, it should be noted that the presence of an improved sources often requires more than just technological change; it requires socio-cultural change adapted to local conditions. Investment in social mobilization is often needed to encourage correct use and maintenance of water points over time, and an equitable distribution of the resource.</p>
<p># 2: Functionality - % of improved water sources that are functional at time of spot-check (rural/WfP). Ratio of the actual hours of water supply to the required hours (small towns).</p>	<p>Provides data on access from the physical infrastructure perspective</p>	<p>Functionality is not necessarily an indication of operational infrastructure - lacking is an indicator of water availability or continuity, actual accessibility or affordability</p> <ul style="list-style-type: none"> - Reports only on official water sources - Indicator offers no user perspective on water access, availability, quantity or quality. The state is measuring its obligation but the enjoyment of the right by users is missed in this indicator e.g. amount of time taken to undertake repairs (sometimes takes up-to 2 weeks hence impacting on outcome). 	<p>This indicator focuses on physical functionality at time of spot check but more data is needed on seasonal-functionality and how this affects access, availability.</p> <p>While functionality in itself is not a human rights based indicator, it is an aspect of continuity of supply and in some cases it may also contain elements of affordability.</p> <p>It is important that disaggregated data be available that can enable the monitoring of both continuity and affordability. Tanker options need to be considered for areas in which seasonal fluctuations</p> <p>Clarity is needed in the performance contract between district authorities and water authorities to capture continuity of supply. The first part refers to just rural and WfP while the second part misses large towns and rural hours and doesn't specify the 14 hrs. Continuity is defined as at least 14hrs a day. BUT in NWSC contract it is 20 hrs which is mentioned in the addendum – These standards differ for different populations based on their physical location which doesn't align with the principle on Non-Discrimination.</p>
<p># 3</p>	<p>Useful indicator on efficiency of finances of</p>	<p>Indicator only covers CAPEX and not OPEX. The element of affordability is hence vaguely captured. CAPEX is the</p>	<p>MWE will need to clearly an appropriate pricing policy - tariff policy/plan for urban and</p>

	<p>the sector for government and donors</p>	<p>state responsibility and hence OPEX seems to be responsibility of communities for O and M - The linkage with the outcomes is missing – it's state-centric and less on users perspective.</p> <p>The link between affordability, acceptability and willingness to pay is not clear.</p> <p>There is an O and M policy but choice of technology is not monitored.</p>	<p>rural which is currently based on choice of technology.</p> <p>The current policy needs to be reviewed (for urban and rural situations) to include an appropriate low-cost techniques and technology and pricing plan for the currently unserved (poor, vulnerable, marginalized or special groups). In rural communities contribute to infrastructure O and M but the policy is not clear on issues of ownership and what the equivalent contribution for O and M is in urban.</p> <p>There is need for a tariff policy with guidelines on embedding affordability in service provider practices and there should be a way to implement and monitor the tariffication process.</p>
<p># 4</p>	<p>Provides information on access to `improved` sanitation for households and schools</p>	<p>4.1. Focuses only on HH and schools No clear if `improved` = `safe`</p> <p>Indicator doesn't comprehensively cover broad understanding sanitation and the whole sanitation loop – wastewater management, safe disposal and re-use – which has impact on the right to health.</p> <p>There is no equity indicator for sanitation since 4.2. mixes target and indicator - it doesn't say the extent the state is reaching the target. The public institutions and public places are missed in this indicator including prisons. Hence there is an element of discrimination in this indicator for not comprehensively capturing vulnerable groups</p> <p>The definition of this indicator does not include those affected by the sanitary waste of others.</p> <p>It is not clear whether the indicator capturing safe, hygienic secure and provides acceptability and privacy and dignity? This is to be captured by UBOS data and not just administrative data.</p> <p>No equity indicator for sanitation</p> <p>This indicator has no detail on type of sanitation schemes for Households or for schools so clarity on what improved sanitation schemes are is lacking. This excludes information on affordability of the improved sanitation and processes indicators are missing.</p> <p>The indicator for instance says little about participation in decisions regarding the technology choices. Unlike access to water, where clear community mechanisms are established for managing water, it is unclear how and who defines improved sanitation affordability at household or school level.</p>	<p>The Indicator 4.1. needs introduction of more parameters to capture elements associated with issues of safety, privacy, dignity, security and to be able to cover aspects of safety and hygiene along the whole sanitation chain/loop.</p> <p>An indicator on sanitation regulation/monitoring for sanitary waste management since ensuring that everyone has access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources. Besides the government has an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children.</p> <p>There should further disaggregation of indicator 4.2. with respect to equity considerations for schools /districts and with respect to planning and prioritization.</p> <p>The governance and government responsibility and accountability for ensuring the right to sanitation for all needs to be reviewed and clearly defined. The split sanitation mandate does not allow for proper planning, budgeting = prioritization and targeting of sanitation. The review of the MoU by OPM needs to carefully consider the issue of which ministry is accountable for sanitation.</p> <p>Bothe The District Sanitation Conditional Grant (DSCG) and the Uganda Sanitation Fund (USF) seem to be targeted for triggering and campaigns i.e. advocacy and not in the actual enabling of access in the districts. Government planning and prioritization of sanitation is necessary but this is hampered by governance and institutional framework issues of the split mandates. The current DSCG to schools is not sufficient to ensure `improved` sanitation to ensure no human contact with faecal matter along the full sanitation chain and to ensure O and M of the sanitation infrastructure. Clarity of the indicators on what is really measured is necessary in order to adequately capture aspects of Non-Discrimination, availability</p>

			(continuity of access to improved sanitation) affordability and acceptability.
<p># 5 Water Quality Drinking water indicator: "Compliance with National Standards for Drinking (potable) water 2008"</p> <p>Wastewater indicator: "Compliance with all 54 Effluent discharge Parameters".</p>		<p>This indicator seems to measure government obligations but not the user's perspective (enjoyment of the right).</p> <p>The measurements for water quality monitoring are quite selective on the parameters and ignore other elements e.g. Nitrogen and Carbon are not included. There are no measurements for heavy metals e.g. lead which is missing in the standards -</p> <p>It is not clear why there are different national values for water quality for urban and rural.</p> <p>It is confirmed that compliance to wastewater quality is low and the fact that some centralized wastewater systems discharge directly to the environment does not show fulfilment of the government's duty to protect - Environmental hygiene, as an aspect of the right to health under article 12, paragraph 2 (b), of the Covenant, encompasses taking steps on a non-discriminatory basis to prevent threats to health from unsafe and toxic water conditions. For example, States parties should ensure that natural water resources are protected from contamination by harmful substances and pathogenic microbes.</p>	<p>An indicator is needed on heavy metals e.g. lead and one on measuring the nematode volume especially at water sources.</p> <p>There is a need to integrate water quality monitoring at household levels (handling and storage especially for boreholes or public standpipes and this seems to be the personal responsibility for HH water quality.</p> <p>Clear independent regulation of water quality is necessary and consistent national water quality standards for all (in both urban and rural). This is crucial for both drinking water and wastewater quality monitoring.</p>
	Focuses on WFP storage capacity but misses reporting on water quantity for domestic and personal use	The minimum sufficient water per capita is missing in this monitoring framework Av. 20 litres per person (basic hygiene requires 50 litres per day).	Clarity on national standards on water quantity for the different uses and situations needs definition to guide supply. This should be clear in the NWSC and Water Operators contracts and enforced.
# 7 Equity	Demonstrates government effort on progressive realization in terms of resource targeting to reduce inequities (based on geographical/administrative distribution).	<p>Limitations of this equity criteria lie in the fact that there is little information to show intra-district and intra-sub-county inequities.</p> <p>At the community level, this formula doesn't allow for participation in technological choice yet this has impact on access, affordability (O and M costs for rural users). Acceptability is not a factor of consideration.</p> <p>The UBOS - UNHS data does not permit looking at access by the poor and economically disadvantaged on a very local level, such as sub-counties or parishes, due to sample size constraints. The situation in specific localities may be very different from the national picture (SPR, 2015).</p> <p>This research confirms that the role of local government in promoting equity is undermined through the equity formula since there is consistent political interference in the allocation of new safe water sources as well as insufficient knowledge of DWOs on their sub-county coverage rate differences.</p>	<p>An analysis of equity that reports on actual groups, areas within the sub-counties or district to confirm actual level and type of access would accelerate progressive realization and enable better targeting.</p> <p>MWE needs to define a comprehensive business plan that is progressively reviewed every financial year to cover the current unserved population. The equity allocation to districts and sub-counties can then be annually reviewed based on actual monitoring and data from districts not based on formula calculations.</p> <p>Since the Golden Indicator no. 7 does not provide the actual data on who is the most marginalized and vulnerable and their access levels, it is necessary for MWE to maximize utilization of existing UBOS data and/or propose new parameters to enhance the impact of monitoring through this indicator. Additional information should include sub-indicators for monitoring access to sanitation that goes beyond household and schools.</p>

		<p>This indicator doesn't allow for the right level in planning that is based on actual identification of unserved, vulnerable and marginalized groups.</p> <p>This equity indicator lays emphasis on access to water and is less explicit on sanitation</p>	
# 8 Handwashing	The indicator monitors households and schools	<p>Indicator precludes other users and areas and only focuses on existence of the facility but not the actual practice, which may require in-depth studies. The indicators is also limited to only extending access to and monitoring hand-hygiene yet even at household level other levels of hygiene linked to water and sanitation are exist, are ignored but have huge impacts on other related rights such as health.</p> <p>The indicator should be closed linked to water accessibility and availability but these parameters are not defined yet hand hygiene cannot happen without water.</p> <p>There is no clarity how the use of hand-washing facilities is actually being measured and some in-depth studies may be required.</p>	Indicators for household and schools need to be clearly differentiated and monitored through the District Sanitation Plans.
# 9 Management	Defines functionality of water and sanitation committees in terms of regularly collecting O&M funds, holding regular meetings, undertaking minor repairs and maintaining adequate sanitation around the water source	<p>This indicator is on water supply and not explicitly on sanitation although the committees are intended for water and sanitation.</p> <p>This indicator is mainly on participation and should report on actual planning including financial planning, prioritization and processes of implementation (O and M activities), monitoring</p>	The role of WSC to handle complaints on water availability, water quality and functionality on behalf of government is not clear and would seem a delegated responsibility. Accountability is delegated to WSC. It is important to clarify the legal status of the WSCs if they are to continue with this role. As noted by Asingwire in the CBMS study, clarity of the mandate of this structure limits its effectiveness. A clear legal framework also serves to protect members of the WSC, in case of legal conflicts that arise from performing their role.
# 10 Gender	Focuses on one group - women representation	This indicator doesn't address the actual capacities and doesn't capture the other discriminated groups who should participate in WASH. There are other gender dimensions women are not representative of all grounds of non-discrimination.	<p>MWE needs to include an outcome indicator for women participation on WSCs.</p> <p>Indicators for the participation of other vulnerable and marginalized groups need to be included</p> <p>The field research revealed that the participation of women is often limited by lack of education, inferiority complex which leads to fear to take up leadership positions</p>
# 11 Water Resource Management Compliance	Focus is on compliance.	The indicator lacks information on e.g. water point protection, water yields, wastewater discharge; have no values on environmental impact in EIAs.	

RECOMMENDATION 3: Baseline Analysis and Target Setting for HRWS Implementation

- i) Establish a baseline with clear disaggregated data of the unserved areas and groups based on the specification of minimum core obligations with respect to substantive and procedural rights that apply nationally irrespective of rural/urban divide; and
- ii) Define a Targeted Strategy for Progressive Realization of Safe Water and Sanitation for all.

The review of targeted sector policies and strategies such as the MWE's Pro-Poor Strategy, 2006 did not yield good results in targeting unserved populations in Uganda. Firstly, there is a lack of definition and characterization of who the unserved are - beyond being poor. As noted, Uganda has a positive policy framework, but this is focused on the transitory poor, not on chronically poor People.⁴⁶⁵ This particular strategy (and other sector policies) seems to have little to say about other vulnerabilities and marginalization in access to safe water and sanitation and how to target and mitigate them. In this respect two related proposals are made to address this: i) establish a comprehensive baseline of the unserved; ii) define a targeted strategy for responding to the water and sanitation needs of the identified population to ensure universal access.

Comprehensive Baseline for the unserved/underserved

The following could be considered:

i) A comprehensive mapping highlighting current level of (or lack of) access to water and sanitation is necessary to provide a baseline.

As a first step the areas, groups and individuals who fall under the definition of 'poor' need to be identified together with other vulnerable and marginalized groups and areas to comprehensively capture all the unserved or underserved groups and areas. This is fully in line with Objective 2 of the *Parliamentary Human Rights Committee (2012) Checklist*, and will effectively be responding to the responsibility of government to demonstrate Non-Discrimination in government programmes, budgets and policies. The mentioned objective lists the different basis of discrimination that should be avoided including gender, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability, attention to vulnerabilities (minorities). It further reinforces the elements of accountability; empowerment, participation and inclusiveness.

ii) Harmonizing the MWE data with the Uganda Bureau of Statistics (UBOS) surveys to establish which data exists as a departure point for this comprehensive mapping.

Currently there is no adequately disaggregated data that reflects the element of Non-Discrimination in safe water supply and sanitation infrastructure and service delivery in Uganda under the Water and Environment sector. Additionally, in terms of available resources, Uganda National Household Survey (UNHS), as mentioned in the World Bank report (2015) which describes access by the poor and economically disadvantaged (under section 4) would be quite relevant.

A report entitled - *Chronic Poverty in Uganda; The Policy Challenges*- reveals that over 8 million of 30.7 million people is chronically poor, with women forming the bulk. This report confirms that exclusion and self-exclusion from decision-making and development initiatives is rife and would need to be addressed if the poor vulnerable and marginalized groups are to participate effectively. While channels through which the chronically poor and their advocates can participate exist, many chronically poor people remain excluded and, because of local power relationships and processes of subordination, inclusion in itself does not guarantee influence over local decisions.

In addition to such consequences of poor governance, exclusion of the poor, due to lack of self-confidence, lack of time, information, skills and education should be noted as part of what causes vulnerabilities. This report identifies vulnerabilities and highlights for instance, "people with disabilities, face various forms of exclusion, isolation and disregard. Poor women are especially vulnerable to chronic poverty and confront

⁴⁶⁵ Chronic poverty matter in Uganda: http://www.chronicpoverty.org/uploads/publication_files/2_CPR-Uganda2005_Summary.pdf.

unfair treatment at the hands of the law and custom..."⁴⁶⁶ This further confirms that poverty should in any case be treated as a form of vulnerability which as confirmed in the World Bank Report (2015) could sometimes be seasonal.

Most available reports do not characterize and describe the beneficiaries in any detail, and certainly not their incomes and socio-economic status. Anecdotal references are almost always to rural people, but it is not known how many are poor or in the Bottom 40%. Some beneficiaries were clearly in the Top 60%, for example, putting in relatively expensive self-supplies in the Kampala suburbs. Action #11 of the pro-poor strategy 2006 called for a study to assess the potential of self-supply to benefit the poor, but this has not been done.

Given that very detailed information has been provided in the World Bank Report (2015) offers a good starting point in unpacking poverty and provides basic information about the number and location of poor and economically disadvantaged people in Uganda.

Target-setting

Despite remarkable gains, the slow pace with which the rerouting of funds to marginalized districts is taking place is noted in this study. Yet, access to safe water and sanitation cannot be constrained because people are poor or live in areas that are hard to reach. There is a need for financial mechanisms to ensure that areas which are already 'on track' for the 2030 SDG goal remain consistent but do not need to receive a disproportionate percentage of earmarked funds.

Overall, this calls for a proper strategy for financing the unserved areas and populations with clear baselines and implementation plan for the different options, which meet the basic national standards (norms and service criteria) that can effectively be monitored for progress. This means that the MWE DWD has to first and foremost ensure there is prioritization of funding to the rural sub-sector to ensure that water and sanitation services are delivered to the 36% of the population who are currently un-served and also target under-served sub-counties.

It is foreseen that a targeted financing mechanisms or strategy will also need to establish institutional responsibility for the process of planning and implementation; identify resources available to attain the expected outcome; allocate resources appropriately according to institutional responsibility; and establish accountability mechanisms to ensure the implementation of the strategy.

The need for a targeted financing and implementation strategy for reaching the unserved has been reached based on the following considerations:

- The overall guiding principle of the 1999 policy was *"some for all rather than more for some."* In other words, equity and serving first those in most need was to be the primary consideration. Specific strategies in the 1999 policy seemed to enable Uganda to reach the rural poor and economically disadvantaged, particularly the use of low-cost and appropriate technology, and community participation in all phases of the project cycle. The policy also introduced cost recovery measures for both rural and urban areas.
- The 2004 PEAP had in fact set the following priorities for the water and sanitation sector: (1) to reallocate funds within the sector to rural water supply, (2) to improve cost effectiveness, and (3) to review urban subsidy policies and tariffs, so that users and the private sector would fully fund and finance services in the long term.
- Some of the review of documents confirmed that some sustainability of water supply is almost guaranteed within the design lifespan of the infrastructure as operation and maintenance mechanisms put in place are well-functioning. However, it is noted that sustainability beyond the design lifespan of schemes is not guaranteed.
- Universal access to water and sanitation cannot be achieved without increased resources to the sector, and this cannot just be achieved through the current financing mechanism. For sanitation, ministries (MOES, MOH, MWE and MLG) are given responsibilities and mandates without adequate financial and human resources to fulfil them, yet progressive realization means clearly indicating

⁴⁶⁶ Ibid.

how budget choices are made and this is not clear enough under current institutional arrangements; and

- The current SDG framework expects states to deliver universal access to safe water and sanitation by 2030 as detailed under Goal 6 and other related Goals and targets. The HRWS (and SDGs) framework require preparation or adoption and implement of a national action plan designed expressly to ensure the right to water and sanitation for everyone. This action plan should have the relevant norms and minimum standards indicators and benchmarks and should be time-bound to show progressive realization.

Clearly, universal access to water and sanitation cannot be achieved without increased resources to the sector, and this cannot just be achieved through the current financing mechanism of public finance (general taxation), donors (grants and soft loans) or the revenue collected from tariffs. At the same time, the private sector or NGOs cannot solely fill this investment gap. What is clear from this study is that a targeted financing strategy is needed - one that will increase resource allocations to the sector, improve the efficiency and effectiveness of existing resources wherever they are found, and tap the potential of alternative financing mechanisms.

Although policies exist favouring targeting of financial resources towards all districts and sub districts to promote equity, the implementation and monitoring is still weak. For instance, Action #9 in the Pro-Poor Strategy already sets the stage on financial targeting i.e. the "*W&S capital subsidies will be targeted to the unserved and underserved (improving distance to source) through the district allocation formula*". The World Bank report 2015), however, confirms that although this action has been implemented through a revised formula for district grant (DWSCG) allocation, it directs proportionately more funds to districts with a greater number of sub-counties below the national average for rural improved water supply, but the guidelines do not direct that the worst served sub-counties be served first.

The above arguments lay ground for immediate government efforts to establish mechanisms to respond in order to accelerate access to the remaining unserved and underserved population in Uganda. More specifically, in order to advance the government's obligation to fulfil the HRWS, there is need to elaborate a definite a low-cost targeted water and sanitation programme to protect vulnerable and marginalized groups which has a clear financing plan of action for advancing access of water and sanitation infrastructure and services to the currently unserved. This plan will have to ensure aspects of accessibility, availability, affordability, safety, acceptability for everyone; and facilitating improved and sustainable access to water, particularly in rural and deprived urban areas.

Part of the prioritization will be defining a clear financing strategy and implementation plan for the identified areas and groups. At community level, defining priorities for community and self-help initiatives that are aligned with sector priorities through small credits, providing small loans for income generating activities could form some of the options. This can be done through mobilizing domestic private sector participation (PSP). Other examples would be introduction of a revolving fund for covering capital costs where a portion of the contributions are given by NGOs/development partners and the remainder by communities or the local water authorities *i.e.* definitions of alternative community credit mechanisms.

Possible considerations could also include identification of all the types of revenue flows that exist beyond national level *i.e.* at community and household levels as part of the baseline. It is necessary to research, analyse and document available data on current investment trends in the water and environment sector to provide disaggregated data to determine water supply and sanitation provision and services expenditure in Uganda as the first step in defining a comprehensive strategy for financing the universal access (reaching the unserved and promoting the services to the underserved).

This would help quantify and provide data on for instance the domestic private investments (including SSIPs, water vendors, public tankers, public tap managers, septic tanks hand-dug wells and latrines, communities and individual households) investments. It is clear that in the Uganda water and environment sector, these domestic local flows are made in flows, are made in time, in kind as well as money (towards a collective scheme) as mentioned in most reviewed sector guidelines and reports and should be properly analysed and targeted to promote community and household access within districts and sub-county levels. These investments are, however, not being included in current investment measures, yet they amount to a

significant proportion of overall infrastructure investment in the sector which is already responding to the unserved groups.

This calls disaggregation for urban, peri-urban rural, capturing all the current underestimation of the value of the private informal sector and which excludes the investments made by households in private wells and septic tanks in both urban and rural areas. In urban areas, for instance, (particularly in the informal settlements) the role of domestic private sector in providing low cost sanitation, due to the densities and unplanned nature of the settlements, is clear and will need re-definition to ensure it is well aligned with then HRWS criteria and service standards. A financing strategy for scaling safe sanitation is not yet articulated despite the fact that there are good case studies which need a business model that promotes and encourages more investments in sanitation. Such a model could integrate aspects of learning through peer influence, integration with livelihoods and early health benefits of improved sanitation.

There seems to be a need to review the actual implementation and utilization of the district grants to ensure equity at district and sub- level: The points described above provides the basis against which definition of an inclusion criteria which would allow systematic screening and prioritization can be established when allocating financing for the unserved. One of the entry points that could be effective is for MWE to define the finance allocation criteria to districts that has location-specific interventions and is targeting at *household* level. It appears there will be a need for inter and intra-district and sub-county reallocation of sector investments (district equity grants) to prioritize the unserved and the improvement of existing services based on the baseline established in the processes described above. Harmonization of district level investments may then be accelerated through the current district development planning mechanisms but with definition of clearer service delivery charters (performance contracts) which highlight the water and sanitation standards within districts and within the sub-counties.

It may be necessary to establish district level managed data which the District Administration officer through support of the District Water, Health and Education Officers can define regular records of priority areas based on access data collected and collated by TSUs. This would promote better governance of the expenditure of the district allocation.

This action already has policy provisions supporting its realization: The NWP 1999 calls for developing ***needs-based criteria*** to determine the selection of locations for service expansion, and appropriately balancing investments between rural and urban areas. In addition, the MWE's Urban Water Supply Department aims to ensure that water and sanitation facilities are constructed within areas of the poor who do not afford in-house connections or who lack access to household sanitation facilities.

Incentives such as ranking Districts or sub-counties on local revenue generation and in their levels of progressive realization in closing the access gaps could promote more deliberate efforts to target the unserved in the districts and to seek further investments for safe water and sanitation activities. This information could be presented in the JSR. This would perhaps ensure that the DWSCG is targeted to the worst-served areas within the district.

The element of sustainability in both the NWP 1999 and in the MWE, DWD WASH performance and management contracts may need to include guidelines and offer clarity on reinvestments. Currently, there is no provision for reinvestment costs in the determination of user fees and the government policy offers no clarity on this. To ensure effective targeting, it will be necessary to develop innovative community-driven initiatives for financing reinvestment costs from existing schemes.

RECOMMENDATION 4: Accountability

Review the current Governance Framework to promote accountability and independent regulation to support enforcement of norms and standards that will accelerate universal access. Expedite the process of setting up the independent regulator.

Without deliberate actions to improve good governance, accountability which includes enhancing access to justice for the poor and marginalized cannot be achieved. For purposes of ensuring that this strategy for accelerating universal access to safe water and sanitation is relevant and effective, the governance of the water and environment sub-sectors will need to be reviewed and necessary adjustments made based on the following justification:

One of the key elements of HRWS is *participation* – establishing a clear process of “how” and “when” to involve relevant stakeholders to contribute to decision-making processes; and as reported in the SPR 2015 despite the fact that existing sector policies and implementation guidelines are well-developed, most of them are not effectively implemented and are not known to most stakeholders at lower levels.

There is still a challenge of lack of *enforcement* by local leadership of sector guidelines, which sometimes results from political influence (e.g. that politicians want to protect their voters from unpopular policies such as community contribution towards construction and O&M), hence they mislead the community because their opinions are held in high esteem. However, some sector policies have helped to guide smooth implementation of WASH services, for instance NGOs regularly make reference to sector provisions while engaging with the community especially around issues of O&M, access to a water facility, land issues when siting a water points, providing school sanitation facilities, among others.

There is limited knowledge of the contents and relevance of some of the targeted policies and strategies e.g. the Pro-poor Strategy 2006. Similarly, most stakeholders consulted during these research confirmed their lack of adequate knowledge on HRWS principles and how they relate to the sector. This raises the question on access to information with respect to key sector documents including minimum standards and guidelines. A simplified guide on how to integrate HRWS in sector practice is needed which demonstrates current gaps and how to address them at the different levels. A new strategy for accelerating universal access (targeted at the currently unserved and underserved) will have to provide an elaboration of the service standards and the cross cutting norms. The poor themselves suggest more careful targeting and implementation strategies, efforts to relieve corruption, financial barriers and more effective information flows.⁴⁶⁷

As part of the efforts to promote *access to information*, focus could be placed on countrywide up-to-date baseline information on the population and the types of access situation in the unserved areas (such as low-income areas including informal settlements, public institutions including schools, health centres, prisons, etc.) on sector performance and on the sustainability of both water and sanitation infrastructure. This means decisions on priority setting and selection of actual areas investment need to be based more on informed choice. While annual sector reviews and other monitoring mechanisms are a reliable source of information for the sector, without comprehensive indicators disaggregated along the set of service standard criteria defined under the HRWS framework that offers comprehensive definitions of access for instance, the actual areas and groups are likely to continue being missed. Due to lack of information on access levels, types and costs related to this, for instance, misconceptions about willingness and ability to pay would continue to hinder targeting of some groups and areas.

With respect to *accountability*, there is inadequate framework for effectively regulating the sub-sector to improve service delivery while protecting the interests of consumers as well as those of the public and private parties. Areas of weakness that have been identified include, but are not limited to: contract management/compliance, performance monitoring and evaluation, water quality monitoring, penalties, sanctions and rewards systems, dispute resolution mechanism, increasing transparency and accountability in the sector, inadequate plans for pro-poor interventions, assets and investments management and tariff

⁴⁶⁷ Does Chronic Poverty Matter in Uganda? Available at: http://www.chronicpoverty.org/uploads/publication_files/2_CPR-Uganda2005_Summary.pdf.

setting and adjustments. Additionally, improvements in *financial accountability and participatory budgeting* are foreseen at the sub-county and Parish to promote community participatory budgeting. Consultations with stakeholders advanced the notion that the district grant allocations need to shifting from expenditures of high capital intensive projects to sustainable low-cost technology options which communities are involved in making decisions so that acceptability as well as affordability can be enhanced.

The current regime of *regulation* is by contract for the town water supplies under MWE's jurisdiction, where Performance Contracts set out the service standards required. Actual performance is monitored through quarterly reports and field verification visits with performance and management contracts used to ensure the commitment of the MWE Small Towns to improving utility performance and service quality. The establishment of Water Utility Regulation Department (WURD) is an initiative to improve the regulation infrastructure, which is aimed at improving performance itself through improved analysis of actual and projected performance. However, WURD continues to be constrained in its activities and increasingly overwhelmed with regard to its mandate due to being under-resourced in its systems infrastructure and manpower requirements. WURD has to depend on out-sourced services and development partner support, and such procurement is often delayed. The ever-increasing number of urban water authorities being developed overstretches the Department in terms of its ability to supervise and monitor urban water performance.

During the FY 2014/15, the performance of NWSC under the current Performance Contract 4A was reviewed by WURD. NWSC submitted quarterly performance review reports which were analysed for comment and feedback. The Performance Review Team (MWE-PRT), which meets at least twice a year to give formal comment and feedback on performance against the current performance contract (PC), continued to review NWSC performance. The WSSA has the duty to ensure the continuous supply of water, which should be at a minimum of 14 hours per day and be available at every standpipe and the first cold water tap on all lands or premises connected to the water supply.⁴⁶⁸ Private operators that fail to provide continuous water for reasons other than outside of their control might be sanctioned by the WSSA through a reduction of their management fee.⁴⁶⁹

The number of *disputes and complaints* from Water Authorities and Private Operators being reported to WURD is increasing, and the Department's capacity to attend to all these disputes is insufficient. There is therefore a backlog of unresolved cases. It is largely dependent on a manual system which gives rise to severe communication and logistical challenges (time spent on travel to/from MWE Small Towns, inadequate transport facilities for field visits). There are also challenges with getting performance data on time and of sufficient quality, (SPR, 2015). Recommendation I above has proposed a need for well-established complaints and redress mechanisms which should be made accessible and affordable to all. There should be a mechanism for handling and resolving services grievances that is compatible with the decentralized governance structure. At the district level, the framework should clearly spell out the responsibilities of those involved, the quality of service standards and indicators, and sanctions applicable in relation to the different services and how they are enforced.

The *targeted service provision* and delivery for the *unserved* needs to be properly embedded in national and local sector institutions and supported by a clear strategy and an implementation plan with a timeframe to ensure monitoring for progressive realization. This has to be supported by clarity of roles and responsibilities at national and local government levels: Clearly the mandate of delivering safe water and sanitation in Uganda is not a responsibility of one government entity. This means that the strategy for targeting and prioritizing the poor will need to take into account the policies and institutional arrangements that will influence the implementation of such targeted action. Better governance and appropriate inter- and intra-sectoral collaboration will be a necessary ingredient for effective implementation to take place. This is particularly relevant for the delivery of safe sanitation given the current challenges of split mandates and will also help enhance the current weak monitoring and enforcement of some of the policies and guidelines.

⁴⁶⁸ Ibid: Seventh Schedule.

⁴⁶⁹ MWE, Management Contract for Water Supply and Sanitation Services: art. 8.8.2.

There is a need for *clarity of service criteria/standards and responsibilities* for utilities and independent regulation to ensure enforcement: For water supply it is crucial that clear service responsibilities are defined for utilities in both the management and performance contracts. The service criteria with national standards should be clearly outlined and reporting and monitoring should be aligned to these criteria and national standards. For both formal utilities and the domestic private sector (including SSIPs, water vendors, public tankers, public tap managers, communities and households), minimum national standards and service criteria have to be recognized in charters and enforced. This cannot be achieved without independent regulation.

ACTION PLAN

ACTION PLAN - Strategic Plan for Universal Access to Safe Water and Sanitation in Uganda			
Recommendations	Justification	Proposed Actions by Mandated State Actors	Responsibility and Possible Support from other actors ⁴⁷⁰
<p>RECOMMENDATION 1: ENHANCED LEGAL FRAMEWORK</p> <p>Consider legal options that will address gaps identified in the current legal framework for enhancing the enabling environment for HRWS compliance and delivery in Uganda</p>	<p>i) Characterization of the normative content of HRWS in the national law;</p> <ul style="list-style-type: none"> - To ensure the enforceability of the right to water and sanitation, which is implicitly included in the Constitution, <u>the content of the HRWS would need to be further characterized in the legal framework</u>; e.g.: - In the Water Act, the HRWS criteria and the framework for implementation need to be comprehensively articulated. 	<p>a) Enshrine an explicit enforceable clause on the right to water and sanitation in the Water Act; (long term)</p> <p>b) Adopt Regulations (statutory instruments) containing uniform guidelines, standards or criteria that must be followed by all water and sewerage authorities and service providers and which may be further specified or adjusted in each performance contract, to the extent permitted by law; (mid-term)</p> <p>c) Ensure that the law frames more exhaustively the regulation of the prohibitions, discontinuations or restrictions of consumption of water supplied, to ensure continuous supply of water for domestic purposes. The law could also regulate interruptions;</p> <p>d) Articulate in law the regulation of basic standards for water that define accessibility and the minimum amounts of water for availability, to ensure more effective enforcement. (mid-term)</p> <p>d) Articulate the affordability principle (as understood under human rights law) in the Water Act and accompanying regulations, integrating both the ability and willingness to pay aspects. (mid-term and long term)</p>	<p>MWE, Attorney General's office</p> <p>Ministry of Health</p> <p>Ministry of Justice</p> <p>Water Policy Committee</p> <p>Law Reform Commission</p> <p>Uganda Human Rights Commission</p> <p>Uganda Law Society</p> <p>Parliamentary WASH committee</p> <p>Committee of Natural resources</p>
	<p>ii) Universal coverage</p>	<p>a) Enshrine in the law the obligation to define criteria to be used for identifying and characterizing the unserved or the marginalized;</p>	

⁴⁷⁰ E.g. UN Agencies and International Partners. See General Comment No. 15 Paragraph 47 ` When formulating and implementing their right to water national strategies, States parties should avail themselves of technical assistance and cooperation of the United Nations specialized agencies` and paragraph 53 ` States parties may obtain guidance on appropriate indicators from the ongoing work of WHO, the Food and Agriculture Organization of the United Nations (FAO), the United Nations Centre for Human Settlements (Habitat), the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF), the United Nations Environment Programme (UNEP), the United Nations Development Programme (UNDP) and the United Nations Commission on Human Rights.

	<p>Through the Sanitation and Water for All Global Framework for Action, Uganda has agreed to provide additional support to “increase access for the poorest and most vulnerable households, to ensure socio-economic benefits are spread equitably among the population”⁴⁷¹. Further, the Persons with Disabilities Act⁴⁷² and the Children’s Act call for non-discriminatory measures, some of which can be linked to water and sanitation services. Universal access should comprehensively be also articulated in the Water Act.</p>	<p>b) Specify in the Water Act that providers of drinking water and sanitation services may not discriminate between users in the provision of services; this means that water and sewerage authorities and service providers take into account the existence and needs of all groups of persons, as previously defined, within areas of service delivery. (mid- and long term)</p>	
	<p>iii) Comprehensive articulation and referencing of generic provisions on access to information and participation.</p> <p>- Under international law, the HRWS requires States to articulate the stages of participation. In the Water Act public participation is articulated, but more emphasis is needed to align with the HRWS principles.</p> <p>- In terms of access to information, the right to access information is granted in the Constitution and reaffirmed in other laws. Access to information also means that suppliers of water and sanitation services inform users on all circumstances that may have possible negative impact on their enjoyment of HRWS. Although the Water Act already captures the importance of access to information in relation to various specific scenarios, it is also important to ensure that it provides a regulatory response for unforeseen scenarios.</p>	<p>a) The law could require all relevant actors, including local governments and water and sewerage authorities, as appropriate, to publish all information on circumstances impacting on users’ well-being, that may have possible negative impact on their enjoyment of HRWS or that are posing a threat to health; (mid- and long term)</p> <p>b) Ensure free, meaningful and active participation in the development of strategies and plans, as well as decision-making regarding water and sewerage services; and ensure that appropriate authorities take due account of the outcome of the public participation before the adoption of key documents or decisions. (mid- and long term)</p>	
	<p>iv) Reinforcement of affordable remedies and mechanisms</p> <p>- Individuals or groups who allege that their rights have been violated should have access to effective remedies at both national and international levels to have their complaints heard and solved.</p> <p>- The current legal framework grants a right to apply for redress and a right to apply to a court against administrative decisions. It also gives powers to important institutions or bodies to bring actions against persons who are acting in contradiction with certain</p>	<p>a) Provide, in the law, accessible accountability mechanisms and domestic remedies, and establish clear procedures for customer complaints in relation to water supply and sanitation services; (mid and long term)</p> <p>b) Establish by law an independent regulator/agency for all water supply and sanitation services. (long term)</p>	

⁴⁷¹ The Republic of Uganda, Ministry of Finance planning and economic development, Ministry of water and environment and Ministry of health, *Sanitation and Water for all: A Global Framework for Action; Uganda Country Statement*, 6 April 2012, at 4.

⁴⁷² Section 25 of the Persons with Disabilities Act states that a person shall not provide services or make facilities available with a view to discriminate against another person on the ground of that person’s disability.

	provisions. ⁴⁷³ Additional remedies or accountability mechanisms are needed in the Water Act in relation to HRWS.		
	<p>v) In light of the evolving approach towards economic, social and cultural rights in Uganda, there is a need to ensure that these rights, including the right to water and sanitation, are understood by all relevant authorities as well as rights holders.</p>	<p>a) Secure targeted trainings and workshops to relevant stakeholders on the practical application of the HRWS and monitoring; namely for law makers, civil society, Parliamentarians and other legal actors (e.g. UHRC, Uganda law society, Law Reform Commission, judges, etc.). Capacity building is also needed for those in charge of service delivery such as the Ministries and decentralized structures (districts, urban councils, TSUs, WSDFs, UOs, WMZs, etc.); (Immediate)</p> <p>b) Render up to date legislation easily available to all to ensure that all citizens are aware of their rights and obligations; and proactively empower them to demand/provide for those rights; Particular arrangements, including appropriate channels, may be needed to secure access to information for persons with hearing impairments, the illiterate or other person with disabilities. (Immediate)</p>	
<p>RECOMMENDATION 2: HARMONIZED NATIONAL STANDARDS</p> <p>Revise current national water, sanitation and hygiene standards and the sector performance measurements to align with HRWS norms and service criteria and the SDG goals/targets</p>	<p>i) Need for harmonized safe water and sanitation definitions and service standards</p> <ul style="list-style-type: none"> - Policies, guidelines and national standards are well defined with some notable gaps at the level of implementation and enforcement. - The definition of sanitation as provided by MWE differs from that articulated by global definitions and that of the HRWS framework - While provisions made in the Uganda Vision 2040 conform to some of the HRWS principles, the sector performance measurements are not fully aligned with the standards in this Vision document (for instance on the principle of availability) and with the HRWS principles⁴⁷⁴ in order to provide an effective 	<p>a) MWE to review the national standards for safe water and sanitation to ensure alignment and harmonization with both development, water and environment sector policy documents to clearly articulate universal access; (Immediate)</p> <p>b) Align the national definitions with global guidelines and standards and have harmonized definitions for country application and measurement; (Immediate)</p> <p>c) Align development plans, strategies and water and environment sector indicators to accommodate the new SDG framework and targets in order to maximize on available capacities and mechanisms to simultaneously deliver on national sector targets and those of the SDGs. (Immediate)</p>	<p>National Planning Authority</p> <p>OPM</p> <p>MoH</p> <p>MWE</p> <p>MOES</p> <p>MLG</p> <p>UHRC and UNBS to support</p>

⁴⁷³ Local authorities are required to take proceedings at law against any person causing or responsible of any nuisance, which can include inadequate water accessibility and inadequate sanitation facilities. Public Health Act, Section 55.

⁴⁷⁴ The availability criteria and standard is mentioned in the Uganda Vision 2040 document which estimates the average water consumption of 2010 at 26 m³ per capita and sets the objective of 200 m³ per capita for 2040. On the other hand the Design Guidelines for Water Supply Infrastructure estimates water demand respectively for house connection at 50 to 200 litres/capita/day, for yard tap at 20 to 40 litres/capita/day and for public stand post at 5 to 25 l litres/capita/day. This consumption rate expected for public standpipes falls short of the international minimum requirement of 20 litres/capita/day.

	<p>national response to the new Sustainable Development Goals (SDG) Goal 6 indicators and target of universal access by 2030; For instance, safe water availability cannot effectively be addressed without discussing the issue of continuous supply which captures both financial, institutional sustainability, related to management model, and the environmental sustainability;</p>		
	<p>ii) Inadequate HRWS disaggregation of sector performance indicators.</p> <p>- MWE performance measurements focus more on tracking the structural and sector process indicators. The outcome indicators that elaborate the level of enjoyment of the HRWS are less clearly articulated and need further definition or integration.</p>	<p>a) MWE/DWD to identify and elaborate the measurement indicators that can be improved or supported with additional disaggregation e.g. using existing data (from UBOS, MICS, JMP) to define new sub-indicators (meta data) to fully define the HRWS service norms and standards/criteria⁴⁷⁵. <i>(immediate to mid-term)</i></p>	<p>MWE MOH UBOS to support</p>
	<p>iv) Multiple accountable government institution for sanitation resulting in lack of targeting</p> <p>- For sanitation, ministries (MOES, MOH, MWE) are given responsibilities and mandates without adequate financial and human resources to fulfil them, yet progressive realization means clearly indicating how budget choices are made and this is not clear enough under current institutional arrangements.</p> <p>- More than 80% of the population in Kampala are not connected to the sewerage system; yet there are no formal guidelines for standards and guidelines for regulating the faecal sludge management particularly for the private sector.</p>	<p>a) Introduce standards and indicator measurements for targeted groups and areas ensuring HRWS in e.g. Public institutions (schools, higher institutions of learning, clinics, prisons, markets among others); <i>(immediate)</i></p> <p>b) In the absence of a National Sanitation Policy the OPM could consider a Sanitation Facility/Authority to address the whole sanitation chain across the line ministries. <i>(medium term)</i></p> <p>c) Articulate standards and guidelines for managing and regulating on-site sanitation (faecal sludge management) across the whole sanitation chain, <i>(immediate)</i>.</p>	<p>OPM MWE MOH MOESST NWSC KCCA NEMA</p>
<p>RECOMMENDATION 3: BASELINE ANALYSIS & TARGET-SETTING</p>	<p>i) There is insufficient characterization and prioritization of the unserved and underserved populations</p> <p>The Objective 2 of the <i>Parliamentary Human Rights Committee (2012) Checklist</i>, (Uganda) and will effectively be responding to the responsibility of government to demonstrate Non-Discrimination in government programmes, budgets and policies;</p>	<p>a) Undertake a comprehensive mapping of all the unserved groups and areas including the currently underserved providing disaggregated data aligned to HRWS principle of universal access; <i>(immediate)</i></p> <p>b) Take stock of existing services by private providers and infrastructure within the urban and rural areas /national inventory for both safe water and sanitation; <i>(immediate)</i></p>	<p>MWE in collaboration with UBOS</p> <p>Proposed Chair of the Development partners (the World Bank) to coordinate so as to build on the</p>

⁴⁷⁵ This research has analyzed the existing Golden indicators and provided guidance on which aspects needs elaboration. MWE could give consideration to this analysis.

<p>RECOMMENDATION 3a): BASELINE ANALYSIS</p> <p>Establish a baseline with clear disaggregated data of the unserved areas and groups based on the specification of minimum core obligations with respect to substantive and procedural rights that apply nationally irrespective of rural/urban divide.</p>	<p>ii) There is limited data on the unserved</p> <ul style="list-style-type: none"> - National legal, development (Uganda Vision 2040) and sector policy frameworks all commit to the progressive realization of safe water and sanitation for all. In addition the SDG Goal 6 places governments with obligation to achieve universal access by 2030; - The overall guiding principle of the 1999 policy was “<i>some for all rather than more for some.</i>” In other words, equity and serving first those in most need was to be the primary consideration. However, the current pro-poor strategy 2006 does not identify who the poor are and doesn’t include vulnerable and marginalized areas and groups and how to identify and target them; - There is insufficient disaggregation of data available defining the unserved, their location, or current service options. 	<p>c) Characterize the vulnerable and marginalized groups in Uganda at the national, decentralized and community levels for the water and environment sector (Immediate)</p> <p>a) In collaboration with other relevant government data generation and management agencies (in particular UBOS) MWE to assess and harmonize existing data collection and management processes at urban councils, districts and community levels - identifying gaps in the process and outcome, to establish an updated baseline on the unserved and underserved⁴⁷⁶. (Immediate)</p> <p>b) Establish district data which compares and ranks urban councils, districts and sub-counties including villages to capture data to show progression (over time monitoring) i.e. define intra-district performance monitoring to enhance better targeting and prioritization. (Immediate to medium term)</p> <p>This will require defining an incentive plan for allocation based on such ranking and sensitization programme for politicians. (medium-term to long-term)</p> <p>c) Collate community-based data to supplement formal data necessary to augment the formal surveys (community-based monitoring to promote participation); medium to long-term)</p> <p>d) Establish a communication mechanism for making available this baseline data to all levels (national, districts, sub-counties and communities) to guide decision making processes and enhance community participation for all. (medium-term)</p>	<p>preliminary work done on the Bottom 40 in 2015 can provide information for interpolation of the data).</p> <p>WHO/UNICEF JMP</p> <p>DWD, MIS and TSUs, WSDFs</p> <p>MWE and MOFPED</p> <p>UWASNET – given the current strong role of CSOs, this further makes provision for public participation but enable some level of verification.</p> <p>MWE</p>
<p>RECOMMENDATION 3b): TARGET-SETTING FOR HRWS IMPLEMENTATION</p>	<p>i) Limited clarity on the current national, district and community strategy for targeting investments to the population without access</p> <ul style="list-style-type: none"> - Despite remarkable gains, the slow pace with which the rerouting of funds to marginalized districts is taking place is noted in this study. There is a need for financial mechanisms to ensure that areas which are ‘on track’ for the 2030 goal do not receive a disproportionate percentage of earmarked funds; 	<p>a) Balance the allocation between urban and rural areas based on needs (medium to long-term)</p> <p>b) ATC to be strengthened to undertake research to define practical options of low-cost technologies that can be feasible for rural areas (Immediate to medium term)</p>	<p>MWE (as the mandated government institution for the water and environment sector) - takes the lead.</p> <p>MoH</p> <p>MoES</p>

⁴⁷⁶ DHS and MICS surveys already utilized by JMP have indicators with disaggregation that could contribute in establishing this baseline;

Define a Targeted Strategy for Progressive Realization of Safe Water and Sanitation for all	<p>- Currently there is provision for reinvestment costs by NWSC and (Capex and O&M expenditure) and determination of user fees - There is need to reinforce the reinvestment in the business planning to target unserved areas and groups.</p>		<p>MoLG – intra-district and sub-county targeting and local revenue generation and enforcement of guidelines and minimum standards based on actual needs of groups and areas. This will include support in articulating the investment plans needed for unserved community and household targeting.</p>
	<p>ii) Need-based criteria is not well applied in addressing the existing imbalances in urban and rural access in the current district allocation criteria</p> <p>- The NWP 1999 calls for developing needs-based criteria to determine the selection of locations for service expansion, and appropriately balancing investments between rural and urban areas. The MWE’s Urban Water Supply and Sanitation Department also aims to ensure that water and sanitation facilities are constructed within areas of the poor who do not afford in-house connections or who lack access to household sanitation facilities</p>	<p>a) Define the finance allocation criteria to districts that have location-specific interventions for rural and is targeting at <i>household</i> level for urban this will entail systematic review of the actual implementation and utilization of the district grants to ensure equity within the urban councils, intra-district and intra-sub-county levels. <i>(immediate to long term)</i></p>	<p>MoFPED – Financial targeting – national allocation to sector for districts</p>
	<p>iii) Lack of definition and reporting on all sector revenue flows particularly domestic private investments in peri-urban areas and districts</p> <p>- Domestic private investments are not being included in current investment measures, yet they amount to a significant proportion of overall infrastructure investment in the sector which is already responding to the unserved groups;</p> <p>- There is a need to strengthen the business planning tool for low-cost technologies for both water supply and sanitation technologies to ensure it effectively captures principles of accessibility, availability, affordability and safety.</p>	<p>a) Harmonize district level investments using current district development planning mechanisms but with clearer service delivery charters, existing data on standards and levels of access within districts and within the sub-counties; <i>(immediate to medium term)</i></p> <p>b) Prepare targeted information sharing process on financing and context-specific low-cost technologies, using appropriate channels (simplified versions and language) to cater for all populations in urban and rural areas; <i>(immediate to medium term)</i></p> <p>c) Develop intra-district and sub-counties ranking on local revenue generation and levels of progressive realization in closing the access gaps; <i>(immediate to long-term)</i></p> <p>Other options:</p> <p>d) Define inter-sectoral cross-subsidies and establish ear-marked cross-sector funding e.g. “user-pays and polluter-pays-principles” - to ensure water quality sustainability, decentralized purification based on population densities and access to sanitation; <i>(medium-term)</i></p> <p>e) Design and implement Joint government sanitation programme managed through OPM with targeted funding for the unserved areas and populations through community and household targeting; <i>(medium-term to long-term)</i></p>	<p>NEMA – enforcement of polluter pays principle and</p>

	<p>iv) Private Community and Household initiatives not aligned with national standards and priorities</p>	<p>a) Define priorities for private community and self-help initiatives that are aligned with HRWS standards and sector priorities through small credits, providing small loans for income generating activities; (medium to long-term)</p> <p>b) Develop innovative community-driven initiatives for financing reinvestment costs from existing public and private schemes; (medium to long-term)</p> <p>c) Review and identify all types of revenue flows/domestic investments that exist beyond national level i.e. at community and household levels as part of the baseline. (immediate)</p>	<p>establishment of earmarked cross-subsidies in MWE</p> <p>Service authorities and providers</p> <p>UWASNET</p>
<p>RECOMMENDATION 4: ACCOUNTABILITY</p> <p>Review the current Governance Framework to promote accountability and independent regulation to support enforcement of norms and standards that will accelerate universal access. Expedite the process of setting up the independent regulator</p>	<p>i) Weak Monitoring and enforcement of policies and guidelines</p> <p>The HRWS norms and standards provide minimum service criteria that assesses sufficient, safe, acceptable, physically accessible and affordable levels; and captures governance issues such as participation, non-discrimination, access to information, accountability and sustainability;</p> <p>Although policies exist favouring targeting of financial resources towards all districts and sub districts to promote equity, the implementation and monitoring is still weak;</p>	<p>a) Strengthening the institutional responsibility for the process of planning and implementation; (long-term)</p> <p>b) Strengthen the existing MWE Regulation Department in line with the HRWS framework while expediting the process of setting up of independent regulation. (immediate)</p> <p>c) Enforcement and monitoring of guidelines, standards and norms as well as tracking the implementation processes for both water supply and sanitation processes; (short, medium and long-term)</p>	<p>MWE with support of OPM are responsible)</p> <p>MoES, OPM, MLG, Auditor General Attorney general</p> <p>Ministry of Gender, Labor & Social Development</p>
	<p>ii) Poor financial tracking of investments targeted for the unserved, vulnerable and marginalized groups and areas</p> <p>- Financial tracking and reporting is crucial for accountability - yet, the current reporting has not captured systematic evidence of progressive realization of the targeting of marginalized districts in Western and Northern Uganda as well as marginalized sub-counties in more well to do districts;</p> <p>- No clear guidelines were found that regulate the investments and services provides by the local private sector such as the small scale providers of water and sanitation, tankers.</p>	<p>a) Review of monitoring tools to capture the current effective utilization of sector budgets and to ensure attainment of the expected outcomes; allocate resources appropriately according to institutional responsibility; and establish accountability mechanisms to ensure the implementation of the established targeted strategy. (immediate to medium term)</p> <p style="text-align: right;">Time frame: 2 years</p> <p>b) Establish clear financial tracking and reporting to show the regional trends in targeting and prioritization of marginalized areas and groups (immediate to medium term)</p> <p>c) Define clear regulatory framework for private sector investment and services (including tariff setting) (immediate)</p>	<p>NEMA</p> <p>NWSC</p>

	<p>iii) Need to strengthen existing guidelines and implementation processes for informal and independent providers of water and sanitation services.</p>	<p>a) Review water supply and sanitation guidelines and standards for domestic private sector engagements (immediate)</p> <p>b) Establish HRWS aligned guidelines and implementation plan for domestic private sector engagement including Small Scale Providers at community and household levels to ensure service standards are respected (immediate)</p> <p>c) Clarify the institutional mandate for delivering sanitation for the unserved so that targeting and accountability can be accelerated through joint programming and targeting across sectors through OPM and NWSG but with a dedicated budget (immediate to long-term)</p> <p>d) The accountability guidelines for WSSBs being elaborated by IRC Uganda (mentioned in SPR 2015) to be aligned with the HRWS accountability principles in order to strengthen current institutional arrangements for water supply O&M; (immediate to medium term)</p> <p style="text-align: right;">Time frame of two years</p>	
	<p>iv) No official guidelines are established on the WASH sector specific accountability mechanisms and no complaint and redress mechanisms defined for service providers and beneficiaries of the water supply and sanitation services.</p>	<p>a) Develop an official guideline for redress and complaint mechanisms for the WASH sector. (Immediate to medium term)</p>	

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ANNEXES

ANNEX I – Multi-stakeholder consultations

List of consulted people

District/Organization	Individuals
Government	
Ministry of Water Environment - MWE Directorate for Water Development (DWD)	Aaron Kabirizi
	Dominic Kavutse
	Richard Cong
	Joseph OrionoEyatu
	DisanSsozi
	Kisembo
	Mafabi
DWD	Ivan Birungi
DWD	Joel Kiwanuka
DWD	Frank Kweronda
NWSC	Edmond Okaranon
NWSC	Ahabwe Gerald
Ministry of Education and Sports (MOES)	Santa Ajok
Ministry of Agriculture Animal Industry & Fisheries (MoAAIF)	Kato Kaizi
MoAAIF	Sunday Mutabaazi
Ministry of Finance Planning & Economic Development (MoFPED)	Irene Achiro
MoFPED	Emmanuel Owang
MoFPED	Margret Kakande
Local Government Finance Commission	Adam Babale
Uganda Local Government Association	Richard Okuku
Ministry of Gender Labour & Social Development (MoGLSD)	Beatrice Nabulime Kaggya
MoGLSD	James KaboggozaSembatya
Ministry of Foreign Affairs	David Etuket
Office of the Prime Minister	Ssansa Mugenyi F.E.
	Marvin Ssenkungu
Lira	
Technical Support Unit (TSU) 2	Godfrey Byarugaba
TSU 2	Obore Stephen
TSU 2	Kimera Henry
Water Sanitation Development Facility WSDF (North)	George Alito

WSDF	Mujjabi Martin Makata
WSDF	Apajo Josephine
WSDF	OketchoPokomol
WSDF	Oyo Samuel
GIZ- RUWASS	Patrick Mass
Umbrella Organization (North)	Faithful Atusinguza
	Tugume Nicholas
Water Management Zone (North)	Johnson Pule
Amuru District Local Government (DLG)	
DLG	Payolem Robinson
DLG	Walter Komakech
DLG	Robert Laporo
DLG	Laker Milly
DLG	Odongo Patrick
DLG	Joyce Lanyero
	John Okwang
Community Groups	
Town Council	Focus Group Discussion (FGD)
Health Centre – Amuru	2 Focus Group Discussions (FGDs)
Health Centre Amuru	
	Samuel Odoki
	Onek Jimmy
International organizations	
OHCHR	Biriyai Theophilus
	Evelyn W Kamau
	Javier Sanjuan
UNICEF	Simon Peter Anturia
	Prakash Raj Lamsal
	John-Bosco Kimuli-Sempala
	Wilberforce Kimezere
	Diego Angemi
Development Cooperation	
JICA - Acholi CAP	Kubo Yusuke
GIZ	Simon Peter Loput
	Caroline Icomat
Civil Society organisations (CSOs)	
Water for People	Brenda AchiroMuthemba
World Vision	Enid Kabasinguzi
WaterSchool	Elisha Dusime
Muhabura Diocese Development Arm	Tobias
	Amos

United Organisation for Batwa Development in Uganda (UOBDU)	Henry Neza
Civil Society Budget Advocacy Group - CSBAG	Caro Namagembe
Welt Hunger Hilfe	George Otomei
Fields of Life	Daniel Semaganda
	Francis Egulu
Human Rights Commission	
Uganda Human Rights Commission	Patricia Nduro
	Med S. Kaggwa
	Gloria Namuleme
	Sophie L. Nantongo
Uganda Law Society	
	Irene Shirley Kwaga
Uganda Law Reform Commission	
	Andrew Kaukha
Mbarara	
Technical Support Unit (TSU) 8	Jolly Barigye
WSDF Southwestern	Mukasha Gilbert
WSDF Southwestern	Kobusingye Elizabeth
WSDF Southwestern	Arnold Asiimwe
Kisoro District Local Government (DLG)	
DLG	Wilson Tibugyenda
DLG	Cranmer Mberwa
DLG	
DLG	Alex Nsenga
DLG	Francis Bainengana
DLG	Francis Munyarubanza
	Gideon Habiya
	Francis Bainengana
	NdizeyeNtawe
NWSC	Robert Mukasa
	Moses
Community groups	
Mwihe GFS	Main Scheme Water Committee
Mwihe A GFS, Mbuga parish	Bugwehe village Water User Committee
Kabale	
Southwestern Umbrella Organisation (UO)	Doreen Ainemugisha

Nakapiripiriti District Local Government (DLG)	
	Charles Lokiru
Community groups	
Namalu Government Prisons Farm	Prison Warders (male)
Namalu Government Prisons Farm	Inmates (male & female)
Namalu Mixed Primary School	Chelangat Moses
Soroti Technical Support Unit (TSU) 3	Francis Edimu
Kumi District Local Government (DLG)	
DLG	Peter Patience Mawanga
DLG	Joseph Balisanyuka
DLG	Ismael Orot
DLG	Christine Apio
DLG	Emmanuel Okalang
JOWA	
Community Groups	
Borehole (Okouba village) Kumi Sub county	Ekoroi Micheal
Ongino market	Public Toilet
Wiggins Primary School	
Mbale Technical Support Unit (TSU) 4	
	Ruth Amongin
Water Management Zone Eastern region	Louis Mugisha
Water Sanitation Development Facility (WSDF) Eastern region	Paul Kato Team members
Kampala	
International Water and Sanitation Centre (IRC)	Jane Nabunya
CIDI	Simon Ddembe
Kamuli	
	Saeed Abdallah Baghoth
	JalwanySilimani
	Tom Waiswa Kamuli
	Stephen Walakira
Kampala	
KCCA	
	Jude Byansi

	Namanya
Nakawa Division	
	Godfrey Kisekka

ANNEX II - Sampling criteria

Region	Cluster	District Stakeholders meeting	District	Justification
		Consultative meetings will be held at the TSU with all specialists If possible WSDF to attend	Field work will be held in purposively selected districts.	Reason for choosing the sampling techniques
Northern	TSU 2	Lira	Amuru	Amuru was purposively selected because of water equity issues. There is also UWA and community boundary conflicts between Uganda and Southern Sudan national Has a population of 220,000 people. Access to safe water is 86% Functionality is 73%, Equity is 26 Pabbo Sub-county has the lowest coverage at 51%. Main water supply technology is the deep borehole. Sanitation coverage is approx. 45%
North Eastern	TSU 3	Soroti	Nakapiripirit	Nakapiripirit was purposively sampled because of the Nomadic practices in the area, Population 244,900. Access to rural safe water is 47% Lowest access is in Karita sub-county. Functionality Rural 88%; Equity 189 Sanitation coverage is approx. 5%
Teso Sub-region	TSU3	Soroti	Kumi	This district was purposively selected as one of the districts with highest concentrations of people living below one dollar/day/square kilometre in a sub-county. Population 377,900 Access to safe water is 61% Functionality rate rural is 87% Sanitation coverage is 75% Equity is 60
South western	TSU 8	Mbarara	Kisoro	The district has minority groups-the Batwa. Has poverty issues (pigmies). District is

				<p>characterized by steep hills with an average of 2,600m above sea level making it difficult to construct water facilities. And thereafter access them even after they have been constructed</p> <p>Population: 247,300 Access to safe water is 44%. Equity is 161 Sub-county with the lowest coverage is Muramba with 8% Functionality rate (Rural) - 90%; Urban is 95% Sanitation coverage is 40%</p>
Central	Kampala		Urban Slums	<p>Kampala will unveil the experience of the urban poor in realizing the right to water and sanitation.</p> <p>Population: 1,597,800 Access is 85%</p>
Eastern	TSU4		Kamuli	<p>Purposively Selected as one of the districts in Eastern region with highest concentrations of people living below one dollar/day/square kilometre in a sub-county.</p> <p>Population: 716,700 Access to safe water is 64% Sub-county with lowest access is Kidera with 31% Functionality Rural: 90%, Urban is 89% Equity is 69 Sanitation coverage is 73%</p>

