

**Water and Sanitation
Modes of Supply in Uganda**

DECEMBER 2007

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LIST OF ACRONYMS

ADB	African Development Bank
AHA	Asset Holding Authority
APCS	Area Performance Contracts
APWO	Association of Private Water Operators
AWEPON	African Women's Economic Policy Network
CBMS	Community Based Management System
CBO	Community Based Organisation
DENIVA	Development Network for Indigenous Voluntary Association
DWD	Directorate of Water Development
DWRM	Directorate of Water Resources Management
DWSCC	District Water and Sanitation Coordination Committee
DWSTC	District Water and Sanitation Technical Committee
EHD	Environmental Health Department
EIA	Environment Impact Assessment
GFS	Gravity Flow Scheme
GoU	Government of Uganda
GTZ	Germany Technical Cooperation
HSSP	Health Sector Strategic Plan
IDMACS	Internally Delegated Management Contracts
IDPs	Internally Displaced Persons
IWG	International Working Group
JWSSP	Joint Water Supply and Sanitation Programme
LA	Local Authority
LGS	Local Governments
MAAIF	Ministry of Agriculture, Animal Industry and Fisheries
MDGS	Millennium Development Goals

MFEPD	Ministry of Finance Planning and Economic Development
MGLSD	Ministry of Gender, Labour and Social Development
MIS	Management Information System
MoES	Ministry of Education and Sports
MoH	Ministry of Health
MoLG	Ministry of Local Government
MSR	Multi Stakeholders Review
MoWE	Ministry of Water and Environment
MoWLE	Ministry of Water, Lands and Environment
NEMA	National Environment Management Authority
NETWAS	Network for Water and Sanitation
NGOS	Non-Government Organisations
NWG	National Working Group
NWSC	National Water and Sewerage Corporation
OP	Operational Plan
PAF	Poverty Action Fund
PEAP	Poverty Eradication Action Programme
PERD	Public Enterprise Reform and Divestiture
PO	Private Operators
PSP	Private Sector Participation
RUWAS	Rural Water and Sanitation
RWSS	Rural Water Supply and Sanitation
SIP	Strategic Investment Programme
SSC	Support Services Contracts
SWAP	Sector Wide Approach to Planning
TSUS	Technical Support Units
UNDP	United Nations Development Programme
UNICEF	United Nations Children Education Fund

URWA	Uganda Rain Water Association
USA	United States of America
UWASNET	Uganda Water and Sanitation Network
UWSD	Uganda Water and Sanitation Dialogue
UWSS	Urban Water Supply and Sanitation
WA	Water Authority
WEDA	Wera Development Association
WfP	Water for Production
WPC	Water Policy Committee
WRM	Water Resources Management
WSC	Water and Sanitation Committee
WSS	Water Supply and Sanitation
WUA	Water User Association
WUG	Water User Group

EXECUTIVE SUMMARY

The UWSD commissioned the Desk Study to establish an inventory of existing research and review and analyse it to establishing areas of further in-depth research with respect to PSP in Uganda. This was based on the view that a lot of research had been conducted prior to and from the onset of the Comprehensive Sector Reforms Strategy of 2001.

In accordance with the Terms of Reference (Appendix 1), the Desk Study aims to capture and document thematic sector issues and gaps on which in-depth research will be conducted by the UWSD. In pursuance of this broad objective, the Desk Study attempted:

- i. To examine what works and why, in terms of efficiency, effectiveness, equity, accountability, of the different approaches to the delivery of water supply and sanitation services – public, private, and community based.
- ii. To establish a platform for multi-stakeholder dialogues on improving water and sanitation service delivery that are inclusive, transparent, and accountable, and involving all the key stakeholders in the sector including small scale independent providers and poor communities.
- iii. *To conduct high quality multi-stakeholder-endorsed research to understand and identify the role of PSP in water supply.*
- iv. *To identify best practices in the delivery of water and sanitation services through PSP.*
- v. *To elaborate on the roles and responsibilities of PSP.*
- vi. To document the dialogue process of learning.
- vii. To disseminate the results of the Uganda Water and Sanitation Dialogue (UWSD) nationally and internationally in liaison with the project's International Working Group (IWG) secretariat.

The Desk Study methodology involved collection and documentation of relevant literature for reviewing PSP in the water and sanitation sector in Uganda from 1995 to date. The National Working Group (NWG) provided guidance and insights on required reports and documentation available. Other documentation was downloaded and reviewed from websites and pages of the organisations involved in the delivery of water and sanitation services in Uganda.

The UWSD formally started in 2005 as a result of recommendations and resolutions from earlier dialogues and workshops such as the 2001 Bonn International Workshop on Water and Sanitation and the subsequent scoping study that, among others, recommended establishment of water and sanitation dialogues in respective countries following an agreed approach and methodology.

A NWG of 17 members in Uganda (See list: Annex 3) was formed and inaugurated in February 2006 to guide the

process. Since its inauguration, the NWG has finalised preparatory stages of the dialogues: stakeholder consultation and mobilisation; design of methodology and institutional framework; and legally established UWSD. The UWSD has gone through an elaborate process of mobilisation, discussions, meetings and workshops aimed at generating consensus for a common understanding and approach on how the research process should proceed.

Water and Sanitation is a key Sector in Uganda and is provided for in the 1995 Constitution of the Republic of Uganda, which establishes the right to water and specifies Government as the organ responsible for delivering it. Some of the Government policies and the legal framework that guide the management of the sector include;

- Constitution of the Republic of Uganda (1995)
- The Local Governments Act (1997)
- The Water Act and accompanying regulations [Water Resources Regulations (1998), Waste Discharge Regulations (1998), the Water Supply Regulations (1999), Sewerage Regulations (1999)],
- The National Water & Sewerage Corporation Act (2000), the Uganda Water Action Plan (1995), and the National Water Policy (1999)
- The National Environment Management Policy (1994); The National Environment Act; the Environmental Impact Assessment Regulations (1998); and the National Environment (Standards for Discharge of Effluent into Water or on Land) Regulations (1999), National Environment (Waste Management) Regulations (1999)
- Land Act (1998)
- National Health Policy and Health Sector Strategic Plan (1999)
- Public health Act
- National Gender Policy (1997).

The policy and legal framework is comprehensive and embraces specific policy instruments of the Poverty Eradication Action Plan (PEAP), different sector laws in relation to water supply and sanitation like the National Gender Policy, and vulnerable groups such as Internally Displaced Persons (IDPs) and People Living with HIV/AIDS. A key sector development has been the completion of sector reforms that introduced investment programmes known as Strategic Investment Programmes (SIPs) that aim to achieve universal service coverage well above the MDG targets.

The role of the public sector in water supply and sanitation is established by the Constitution of the Republic of Uganda 1995 that provides for the right to water and specifies Government as the organ responsible for delivering it. The Ministry of Water and Environment is the lead public agency responsible for design, formulation and implementation of legal and policy instruments as well as regulation in the sector. In addition, Uganda has adopted an elaborate decentralised system of government where public service delivery; water, health, primary and secondary education, is a responsibility of Local Governments (Local Govt. Act, 1997). Other Ministries and departments that play peripheral roles in water and sanitation include the Ministry of Education and Sports which is responsible for Water and Sanitation in

schools; the Ministry of Health, which is partially responsible for sanitation through its environmental health department, and the Ministry of Gender, Labour and Social Development, which is charged with gender mainstreaming and public awareness and mobilisation.

Access to improved water in the urban sub-sector was reported by the World Bank (2005) to be 72% in 1990 but this figure continuously dropped and by 2002 access was estimated at 63%. In 2006 coverage had slipped further to 51% (MWE, 2006). It is evident that the sector has also heavily depended on donor funding. The financing trend coupled with a rapidly growing population points to the difficulty of keeping up with improved coverage levels and meeting MDGs and PEAP targets. Water and Sanitation are given high priority under pillar 4 (PEAP 2004).

Further, budgeted amounts have tended to vary from actual expenditure and in many instances delayed disbursement have constrained performance (WSP Report; Getting Africa to Meet the MDGs on Water and Sanitation, 2006). In addition to this distribution of disbursed resources is not equitable (MoWE; Water Sector Performance Report, 2006)

In the Urban Water Supply sub-sector, the sector budget ceilings do not match Government's target to provide water and sanitation services to all people in gazetted towns with population above 5,000 persons and district headquarters by the year 2015. According to the SIP urban WSS investment requirement to provide 100% coverage by 2015 is estimated at US\$ 38.1m per annum (Sector-wide Investment Plan of 2004). However, to achieve MDG targets for the whole country, it is estimated that Uganda's financing requirements amount to US\$ 242 million per annum for the next ten years. This amount includes US\$ 95 million for water supply and US\$ 147 for sanitation (WSP Report; Getting Africa to Meet the MDGs on Water and Sanitation, 2006).

NWSC is a public entity established by the National Water and Sewerage Corporation Act 2000 and mandated to provide services in large towns under contract with the MoWE. NWSC has had two phases of reforms: those that have been internally initiated and those externally imposed by government.

External reforms were driven by the performance contract signed with government that set out conditions and targets covering five areas; water production and sewerage, water distribution, customer care services, revenue generation, and cost reduction. In return a Memorandum of Understanding was reached in which government agreed to freeze the debts owed by the corporation and commit to pay NWSC bills for water and sanitation services provided to government bodies. These reforms were influenced by the desire to make NWSC financially sound and attractive for privatisation (Public Enterprises Reform and Divestiture Act, 1993).

Earlier attempts to privatise some of the functions of NWSC such as management and revenue collection through contracts signed between the Corporation and international private water operators did not succeed (NWSC Annual Report, 2005). The first contract was between NWSC and JBG Gauff of Germany and the second one with ONDEO Services Ltd. Nonetheless some of the lessons learnt from this form of public and private sector interaction were that it required a comprehensive system of counterchecks and controls in order to work. These lessons were later to be incorporated into NWSC's current management principles and have continued to influence the Corporation's operational structures.

The NWSC has through these reforms been transformed from a previous poorly managed public utility to one of the most successful and recognised utilities in Africa, extending consultancy services to other countries within the region.

Internally the corporation has systematically restructured its service delivery units from a centralised management approach to delegated management systems. The Corporation's service delivery is now a function of Internally Delegated Area Management Contracts (IDAMCs)

Local Councils in Small Towns where water systems have been established operate under delegated mandate through performance contracts with the Ministry responsible for water. Before entering into performance contracts, the Urban Local Councils are gazetted (the authority delegated is officially published in the Government Gazette) as Water Authorities by the Minister responsible for water in accordance with the Water Act. This process effectively and lawfully makes Urban Local Councils service providers. In pursuance of this mandate, however, the Performance Contract obliges Water Authorities to contract Private Operators for management, operation and maintenance of the water systems.

Under the Rural Water and Sanitation Sector, Local Governments (Districts, Towns, and Sub-Counties) are empowered by the Local Governments Act (1997) for the provision of water and sanitation services. They receive grant funding and may use some of their locally mobilised resources for implementing rural WSS programmes. Technical Support Units (TSUs) have established to provide backstopping support to districts in implementation of water related programmes. The guiding principle for water provision in rural areas is the demand-driven approach. The presumption being that local communities once sensitised appreciate and, therefore, demand establishment of clean water sources

The framework for regulation in place consists of the following instruments:

- Water Act
- Permitting for abstraction and discharge
- Declaration of water supply and sewerage areas
- Establishment of Water Policy Committee
- National Environment Statute
- Establishes NEMA for environmental regulation
- Public Health Act

These legal instruments are not backed by precise regulatory instruments to regulate a number of activities (e.g. licences).

Private sector engagement in water supply and sanitation is premised on the overall national economic policy framework, which emphasises economic liberalisation and privatisation of public enterprises. The introduction of private operations in the water sector is linked to the privatisation of public enterprises under the Public Enterprises Reform and Divestiture Act under which NWSC was one of the institutions listed for privatisation. Although the process of privatisation of NWSC has lagged, management of urban water supplies in small towns is largely a private sector undertaking.

Private companies are contracted for various activities in the water supply and sanitation sector including consulting services for the design of systems and contractors for the construction of schemes. Although key parts and materials (hand pump, pumps, bulk meter, pipes and fittings, etc.) for systems installation are still procured by government, the private sector is the only supplier. The private sector is also involved in operation and maintenance¹ of water supply systems. Currently up to 98% of the small town's water supplies are under the management of Private Operators².

This study does not identify specific research studies that sufficiently document controversy surrounding PSP in Uganda. On the contrary, sector studies such as the Public Opinion Survey Report (2006) and the Background to the Reform Strategy (2003) indicate that there is general consensus on PSP in water and sanitation. These studies were commissioned by Government when sector reform implementation towards PSP was either on-going or about to be implemented.

The issues arising from this study on the different modes of supply are enumerated here below;

- Policy implementation introduced the private sector through management contracts; the policy document itself does not adequately provide for this and consequently the Water Act does not.
- There is no evidence that the financing trends under the current arrangement i.e. public, formal private providers, and NGO will lead to the realisation of MDGs for water and sanitation.
- The traditional role of women and children has been highlighted in policy documentation but effective implementation has lagged.
- Separation of roles i.e. Asset Holding, Regulation and Service Provision are still a major issue. This is provided for under the Water and Sanitation Reform Strategy but has not happened, despite all research indicating the need for sector regulation.
- A number of regulatory instruments and institutions are provided for and some exist but their effectiveness is still questionable hence the continuous studies for a more effective sector regulatory framework. As a result there is no documented evidence of public accountability in relation to tariff setting, insufficient supply, and water quality concerns.
- Governance, especially with respect to corruption in procurement and contract management, and ineffective and inefficient implementation of procurement rules and practices needs to be addressed. This is, however, only documented with reference to tendering and procurement of private operators.
- Sanitation issues continue to be at the periphery of the Water Policy, the Act and Institutional Arrangements.
- Inadequate technical, human, financial, and logistical capacity especially with respect to POs has been documented; including limitations in technical consulting services.

¹ *Standard Management Contract, DWD*

² *Small Towns Situation Analysis of Operational Environment Report*

- So far no authoritative studies have been found on informal service providers/vendors although it is common knowledge this sub-sector exists and services a big population.

There is evidence from the study and emerging issues therein that a number of areas of PSP have fair consensus. Areas that need to be addressed through the UWSD cut across the different modes of supply in Uganda although some may require dialogue and advocacy to improve the environment while others need more research to establish their contribution to MDGs. Key issues that need to be addressed are:

- Improvement of the policy environment for POs (formal and Informal), including WUCs aimed at increasing their incentives for better performance.
- More effective implementation of existing regulatory instruments as studies go on for an appropriate regulatory framework including tariff setting across the board whether for public or private for profit or NGO provision.
- Zero rating of Value Added Tax (VAT) on water tariffs to reduce the cost of access for the poor.
- Refocus of policy implementation to deliver effective gender equity under both public and private sector modes of supply.
- Formulation of a separate policy for sanitation to refocus sanitation efforts in the sector.
- Better Governance in order to deal with governance issues especially corruption and poor contract management.
- Scaling up investment and financing for infrastructure (to examine the case for wider public or private sector financing, the relationship thereof and implications for increased service delivery).
- The role and scope of Informal Private Service Providers and their contribution to the attainment of MDGs with respect to the service to the poor.
- The case for delayed implementation of effective sector regulation.

1 INTRODUCTION

1.1 INTRODUCTION TO THE DESK STUDY

Since 2001 at the Bonn International Conference on Freshwater where agreement was reached to conduct a six-month long global water scoping study, a number of studies and investigations have been conducted on the subject in Uganda and elsewhere in the world. The Desk Study has carefully studied these reports and come up with thematic sector issues and gaps that will form part of the comprehensive and in-depth research to be conducted by UWSD.

1.2 SCOPE AND STUDY OBJECTIVES

In accordance with the Terms of Reference (Appendix 1), the Desk Study aims to capture and document thematic sector issues and gaps upon which an in-depth research will be conducted by the UWSD. In pursuance of this broad objective, the study attempted:

- i. To examine what works and why in terms of efficiency, effectiveness, equity, accountability, of the different approaches to the delivery of water supply and sanitation services ; public, private and community based.
- ii. To establish a platform for multi-stakeholder dialogues on improving water service delivery that is inclusive, transparent, and accountable and involving all the key stakeholders in the water and sanitation sector including small scale independent providers and poor communities.
- iii. To conduct high quality multi-stakeholder endorsed research to understand and identify the role of PSP in water supply.
- iv. To identify best practises in the delivery of water and sanitation services through PSP.
- v. To elaborate on the roles and responsibilities of PSP.
- vi. To document the Dialogue process of learning.
- vii. To disseminate the results of the UWSD nationally and internationally in liaison with the project's IWG secretariat.

1.3 METHODOLOGY

The Desk Study involved collection and documentation of relevant literature to make a case for review of PSP in the water and sanitation sector in Uganda from 1995 to date. The NWG provided guidance and insights in the type and kinds of required reports and documentation that are available. Other documentation was downloaded and reviewed from various websites and pages of the organisations involved in the delivery of water and sanitation services in Uganda. Table 1.1 shows a summary of organisations visited during the documents collection stage.

Table 1.1

Summary of Organisations from which information was acquired

Category	Organisations
Public	Ministry of Water and Environment
	Directorate of Water Development
	Ministry of Lands and Urban Planning
	National Water and Sewerage Corporation
	MFPED (Utility Reform Unit)
	MOH (EHD)
	MoLG (Association of Local Water Authorities)
Private (Non Profit)	Water Aid, UWASNET, DENIVA, AWEAPON, RUWAS, NETWAS
Private (Profit Making)	Private Operators, Private Service Providers, Informal Vendors, Contractors and Consultants and APWO
Donors	GTZ, SNV, World Bank, UNDP, UNICEF, ADB
Research Institutions	WEDC, CRANFIELD

Source: UWSD various reports

The UWSD adopted a methodology that would cover PSP review from investment, construction, operation, management, and consumption in rural and urban water supply. These issues are relevant to this review as they have implications on water supply coverage and growth trends and may be resolved by more efficient public or private sector players. In recognition of trends showing increasing per capita costs, the Ministry of Water and Environment has commissioned a "Cost Variation Study" to establish the reason for the wide variance in investment and operational costs. The underlying belief is that the government in particular and public in general is not getting value for money, which might have substantial negative implications on coverage levels especially in view of the population growth trends.

1.4 DOCUMENT REVIEW AND ANALYSIS

The documents collected were categorised according to areas outlined in the objectives. The review aimed at broadening understanding of the project and capturing issues and gaps that will form the basis for advocacy activities and further in-depth research. The findings from the desk study were regularly discussed with the research committee and other NWG members. A summary of the documents and reports collected and reviewed is provided in the bibliography.

While all documents collected were reviewed, the report is a result of emphasis laid on reports and studies that have contributed to or form a foundation for the wide ranging policy and legal reforms, implementation framework and practice in the water sector. This was done in particular reference to the NWG terms of reference that are consistent with the central theme of the PSP review.

2 BACKGROUND

2.1 CHRONOLOGY OF PSP REVIEW

Private Sector Participation (PSP) in water and sanitation service provision has always been a controversial subject. The controversy and conflicting opinions surrounding PSP resurfaced at the Bonn International Conference on Freshwater, 2001, where a proposal on a multi-stakeholder dialogue to review the issues linked with PSP was agreed. A working group of stakeholders with widely different backgrounds and views on PSP was formed and tasked to explore the case for a multi-stakeholder PSP review through the Global Water Scoping Process.

Recommendations from the scoping process emphasised the need for PSP as one way of achieving the Millennium Development Goals (MDGs) on water and sanitation. The stakeholders' workshop held in Berlin in June 2004 reached an agreement in support of reviewing PSP through a participatory and interactive dialogue and set up an IWG for it. National multi-stakeholder reviews formed thereafter were conducted following an agreed methodology that would feed into an international discussion and review process. The international process included a synthesis report from national dialogues, a position that has changed owing to the diverse nature and different stages of the research process.

The Uganda Water and Sanitation Dialogue (UWSD) formally started in 2005, under a multi-stakeholder approach. A National Working Group (NWG) of 17 members (See list: Annex 3) was formed and inaugurated in February 2006 to guide the process. The NWG has finalised preparatory stages of the dialogues: stakeholder consultation and mobilisation; design of methodology and institutional framework; and legally established UWSD. The UWSD has gone through an elaborate process of mobilisation, discussions, meetings and workshops aimed generating consensus for a common understanding and approach on how the research process should proceed. Table 2.1 gives a chronology of this process.

Table 2.1
Chronology of activities for the Dialogue

Date	Description of Workshop	Venue
2001	International Conference on Freshwater	Bonn
June 23-24, 2004	Multi-stakeholders Workshop held to discuss the finding of the global water scoping process	Berlin
June 2005	Launching and mobilisation of the Global Multi-stakeholders Review (MSR)	Germany
July 2005	1 st Country meeting and preparations of Initial MSR	Kampala
August 2005	Development of Draft Country Review Methodology	Kampala
August 2005	Initial MSR and finalisation of Country Methodology	Kampala
September 2005	Country Secretariat and presentation of Budget	Kampala
September 2005	Promotion Review at the Joint GoU/ Donor Review	Kampala
Oct-Nov 2005	International Methodology Workshop	Kampala
31 Jul – 4 Aug '06	Mobilisation Campaign by the NWG and PC of IWG	Kampala.

Source: Extracted from various UWSD reports

This desk study was commissioned in June 2007 by UWSD and is part of the preliminary research activities aimed at collection and compilation of an inventory of research reports and documentation relevant to the dialogue. The purpose of this desk study is to capture and document issues arising from existing reports, analyse and establish issues and gaps for further research by UWSD and determine how existing information may inform the research.

2.2 BASIS FOR THE DESK STUDY

The UWSD is a multi-stakeholder forum that provides an opportunity for sector actors with different and divergent viewpoints and perspectives to engage in constructive dialogues that will enable collective identification, critical analysis and agreement on service delivery modes that are most likely to accelerate the realisation of the MDG and PEAP targets for water and sanitation. Difficulties in reaching consensus on thematic sector issues such as financing, regulating and delivering water and sanitation services to the vast majority of the poor and disadvantaged people (estimated at a global figure of one billion lacking water and two and half billion lacking sanitation services) has led to the conclusions that dialogues are critical to try and reach some form of agreements (Global Scoping Study Report, 2005; NWG, 2006).

Controversy on PSP has overtaken the debate on whether the private sector has a role to play or not and how if at all they should be engaged without compromising service delivery for water and sanitation. This controversy hampers the deployment of scarce profit-seeking resources under private sector control, and the available but limited public resources already over-stretched with highly competing priorities. It is, therefore, important to understand the mechanisms necessary for unlocking and redirecting such resources for efficient and effective utilisation in water and sanitation services. However, lack of agreement on PSP and the ongoing controversy surrounding its role, do not only undermine efficient and effective deployment of resources but if not critically addressed threaten to exacerbate the inequitable access to water and sanitation services in particular and constitute an impediment to achievement of MDGs particularly in water supply and sanitation, and poverty reduction programmes in general.

2.3 REVIEW PERSPECTIVE

The view of UWSD was that a lot of research had been undertaken in water and sanitation in Uganda shortly before and at the onset of the comprehensive sector reforms that started in 2001. A decision was therefore taken by the NWG to start with a detailed desk research in order to avoid duplication into adequately researched issues and to substantially inform the field research. The Desk Study establishes a better perspective by taking stock of the work so far done on PSP engagement. The thematic issues raised by stakeholders among others include investment financing, tariffs, profits, cost of service provision, donor conditionalities and small scale informal service providers, and how these will constrain or contribute to the attainment of MDGs in water supply and sanitation in particular and PEAP targets in general.

The outcome of this study is expected to inform the NWG on the way forward and critical issues for research. In addition, the NWG intends to use this study in establishing agreed but pending sector interventions for thematic issues raised above and to start advocacy for implementation. Reports on cases of successful and failed PSP initiatives in the private and public sector will be examined to inform stakeholders of the potential risks and benefits for decision consensus-building during the UWSD dialogue processes.

It is also intended that the desk study and field research findings will among others accelerate policy decisions that will help in guiding the sector to achieve affordable and sustainable methods of accelerating water supply and sanitation service delivery to the poor people.

3 POLICY AND LEGAL FRAMEWORK

Some of the Government policies and the legal framework that guide the management of the sector include:

- The Constitution of the Republic of Uganda (1995)
- The Local Governments Act (1997)
- The Water Act and accompanying regulations (Water Resources Regulations (1998), Waste Discharge Regulations (1998), the Water Supply Regulations (1999), Sewerage Regulations (1999)
- The National Water and Sewerage Corporation Act (2000), the Uganda Water Action Plan (1995) and National Water Policy (1999)
- The National Environment Management Policy (1994); The National Environment Act; the Environmental Impact Assessment Regulations (1998); and the National Environment (Standards for Discharge of Effluent into Water or on Land) Regulations (1999), National Environment (Waste Management) Regulations (1999)
- The Land Act (1998)
- The National Health Policy and Health Sector Strategic Plan (1999)
- The Public health Act
- The National Gender Policy (1997)

Where appropriate these policies and legal instruments will be covered in more detail under the different relevant issues under review.

3.1 POVERTY ERADICATION ACTION PLAN

Consistent with the Constitution and sector policy, the Poverty Eradication Action Plan (PEAP) recognises the importance of access to clean water and sanitation and provides for it. The PEAP³ places water supply and sanitation among the priorities for poverty reduction under Pillar 2: Enhancing production, competitiveness and incomes (including water for production and resources management) and Pillar 5: Human Development, which includes water supply and sanitation (provision of safe water and adequate sanitation facilities for everyone). All sectors specifically provided for under the PEAP are deemed high priority sectors that ideally should attract the same priority in funding levels. The funding priorities for water and sanitation are discussed in a separate chapter on financing and investment. Uganda's water supply targets are to increase access to safe water to 77% of the rural population and 100% of the urban population, by the year 2015. This is in line with and far more ambitious than the MDGs undertakings that aim at halving the percentage of people without access to safe water over the same period.

³ PEAP is the national planning framework for poverty reduction, revised edition (MFPED, 2004a)

Uganda has enjoyed an impressive economic growth over the last decade that has been manifested in rapid sector improvements, although the number of people not yet served with water and sanitation is still high. Safe water coverage is reported at 51% in the rural areas and 61% in urban areas, while sanitation is estimated at 85% and 96% in the rural and urban areas respectively (World Bank, 2005; MWE, 2006). These impressive statistics are a result of several sector reforms initiated by the government.

3.2 REFORM PROCESS

Reforms in the Water and Sanitation sector nominally started in 1995 with the promulgation of a new constitution. This was reinforced by the Water Act at the legislative level and at the Ministerial policy level with the Water Policy of 1999. This policy effectively introduced the Sector Wide Approach to Planning (SWAP) that was adopted in September 2002. It allows for Government and development partners to support a common Strategic Investment Programme (SIP) under the “Joint Water Supply and Sanitation Programme Support (JWSSPS)” that emphasises Government leadership and priorities.

The key features of the Water SWAP are:

- i. A harmonised strategy for the sector and framework for common approaches
- ii. A clearly defined institutional framework for all stakeholders to work in
- iii. Adoption of existing government systems that enhance government capacity
- iv. Enhanced value-for-money of services
- v. Improved monitoring, evaluation and reporting of sector activities and performance
- vi. Enhanced sustainability of services provided

Overall the reforms were very broad to cover what are commonly referred to as sub-sectors. These include: water for production (a function that was transferred from the Ministry of Agriculture), rural water and sanitation, urban water and sanitation (sub-divided into large towns under NWSC and small towns under Private Water Operators). The various sub-sector reforms are covered in more detail in Chapter 4.

3.3 REFORMS GEARED TO PSP

The UWSD and PSP review noted that when reforms in the water and sanitation sector were gaining momentum, another significant reform process, economic liberalisation, was going on under the Public Enterprises Reform and Divestiture (PERD) Statute (1993). This economic reform process paved way for privatisation of public enterprises through various forms; out-right sale, joint ventures, asset leasing, concessions and management contracts. National Water and Sewerage Corporation was among the public enterprises listed for divestiture. The divergent and dissenting controversial views on PSP in water supply and sanitation in Uganda emerged during this period, and the opinion from mainly Civil Society Organisations captured the “sale” of NWSC and was largely opposed to it. Some of these organisations included Action Aid Uganda, Development Network of Indigenous Associations (DENIVA), African Women’s Economic Policy Network (AWEPON) and several members of Uganda Water and Sanitation Network UWASNET.

It is also reported that some government officials were opposed to the reforms in the water sector (Public Opinion Survey; 2004, MWLE).

The controversy notwithstanding, these two reform processes, were largely responsible for NWSC's "failed" experiments with PSP under two different management contracts with international water operators; JBG Gauff and ONDEO of Germany and France respectively. Lessons from these experiences were an important factor for NWSC's internal reforms. The MoWE through the Directorate of Water Development was also driven by these reform processes to formally and effectively introduce local POs in small towns' water supply under management contracts in 2001. Currently these two modes of supply constitute the more formally recognised institutional mechanism for water supply and sanitation in urban areas, especially in towns and rural growth centres.

In rural areas, the policy reforms introduced community managed water point sources e.g. boreholes and protected spring wells. The policy provides for establishment of Water User Committees as a mode of sustainable water supply management. Sanitation in rural areas is a household responsibility, except in schools and educational institutions where the mandate is delegated to the Ministry of Education and Sports. The matrix below provides a summary of various reforms in the sector:

Policy Reform	Purpose
Sector Wide Approach to Planning (SWAP)	Shift from project-model implementation approach to that based on national programs. An interactive and participatory approach between government, NGOs, and development partners on thematic issues such as best practices, efficiency, performance and sustainability of services delivery was introduced.
Demand Responsive Approach	Program implementation to be driven by public awareness creation through mobilisation aimed at creating a demand for affordable services that could be managed and delivered in a gender responsive manner.
Integrated Approach	Guide the development, mobilisation, promotion and protection of the water resources and the environment.
Private Sector Participation	Involve the promotion and facilitation of consultants, contractors and small-scale community artisans in the design, construction and management of water and sanitation facilities.
Institutional Reform and Capacity Building	Strengthening of National and Local level community institutions to undertake their new roles for ownership and ensure proper operation and maintenance of installed facilities.
Sanitation Improvements	Use of public funds in the provision of hygienic and ecologically and environmentally sound toilets for communal use; promotion of hygienic education for behavioural change and knowledge enhancement to enable individuals provide sanitation facilities at household level.
Community Based Management Systems (CBMS)	Strengthening and sustaining the operation and maintenance of rural water supplies by users where costs are to be fully borne by the consumers with support from local governments for major repairs and maintenance beyond user financial and technical capacity.
Standardisation of hand pumps	Aimed at easing operation and maintenance by users and ensure availability of spares for hand pumps, the use of proven technologies in public domain with after-sale maintenance

Policy Reform	Purpose
	support. This is also applicable to piped water schemes in rural growth centres.
Management Information Systems (MIS)	Adoption and prioritisation of user friendly information systems at all levels to facilitate timely and effective decentralised planning and targeted interventions for the non-served and efficient use of resource.
Monitoring and Evaluation	Integrate planning and implementation that focuses on effective use of resources for service delivery, sustainability of facilities and ensuring timely reporting at all levels.

Source: DWD

3.4 GENDER MAINSTREAMING

Based on the national Gender Policy, a water and gender strategy was formulated to guide gender mainstreaming in water and sanitation. As such it is a requirement to have at least one woman in the composition of water supply boards and user committees. Although the Gender and Water Strategy is an overarching instrument, sector performance is largely based on quantitative presence of the number of woman gender on boards and committees (The Sector Performance Review Report of 2005). The study on Privatisation of Water and Women's Economic Rights (AWEAPON, 2005) points out the gender distribution of roles at household level, puts a higher obligation on women and the girl child on provision of water in homes and therefore mere numbers of the presence of women on boards is an inadequate measure.

3.5 VULNERABLE GROUPS

Vulnerable groups include mainly the IDPs, refugees, child-headed households, and people and communities affected and infected with HIV/AIDS. These people have unique access terms and condition needs. Extended conflict and the disease scourge in different parts of the country has caused inequity, economic incapacity, and social disorder that render the affected population unable to access water and sanitation through the formal modes of supply (Sector Performance Report, 2006).

THE PUBLIC SECTOR IN WATER SUPPLY AND SANITATION

The role of the public sector in water supply and sanitation is established by the Constitution of the Republic of Uganda (1995). It provides for the right to water and specifies the Government as the organ responsible for delivering it. The MoWE is the lead public agency responsible for design, formulation and implementation of legal and policy instruments as well as regulation in the sector. In addition, Uganda has adopted an elaborate decentralised system of government where public service delivery e.g. water, health, primary and secondary education is a responsibility of Local governments (Local Govt. Act, 1997). In addition, the Ministry has overall responsibility for setting priorities for water development and management (MWLE, 2004b).

There are other Ministries and departments of government that play peripheral roles in water and sanitation. The Ministry of Education and Sports is responsible for Water and Sanitation in schools; the ministry of Health is partially responsible for sanitation through its environmental health department, and the ministry of Gender, Labour and Social Development is charged with gender mainstreaming and public awareness and mobilisation.

In performance of its functions, the MoWE has three directorates; the Directorate of Water Resources Management, Directorate of Environment, and Directorate of Water Development, which is responsible water supply and sanitation.

4.1 DIRECTORATE OF WATER DEVELOPMENT

The Directorate of Water Development (DWD) under the MoWE is the lead agency for coordinating and regulating all water and sanitation activities and providing support services to Local Governments and other service providers. It also supports districts in implementing decentralised WSS programmes and implements the development of schemes (new construction and rehabilitation of old ones) in small towns and rural growth centres. DWD has eight Technical Support Units (TSUs) that provide backstopping and capacity building support for implementation of sector mandates for rural and urban water in districts and small towns respectively.

4.1.1 Sub-Sectors

The water and sanitation sector is structured along sub-sectors (water for production, rural water supply and sanitation and urban water supply and sanitation). The UWSS is further subdivided into large towns (under National Water and Sewerage Corporation) and Small Towns under Water Authorities (Urban Local Councils).

UWSD is concerned with modes of supply for water and sanitation mainly for human consumption as captured from the emphasis of the MDGs. It is important to note that while sanitation is part of the focus of the UWSD, most policy documents do not clearly and specifically define the institutional mandate for sanitation.

The UWSS sub-sector comprises the provision of urban water services for domestic purposes, industrial and other gazetted towns and centres with populations of more than 5,000 people. It includes 22 large towns and about 180 small towns.

Large towns are managed by NWSC under a performance contract with the Government. Upon completion, small town water supplies are managed by private operators accountable to Water Authorities gazetted by the MoWE.

Reforms in the urban water and sanitation sub-sector were guided by the UWSS sub-sector reform study that was completed in 2001. A key outcome of the study was the development of short-term, medium and long-term sub-sector targets. In addition, the study recommended a comprehensive institutional framework and sector strategy for urban water supply and sanitation. Under this study, a 15-year investment plan for the sub-sector estimated at US\$ 481 millions was developed.

Access to improved water in the urban sub-sector was reported by the World Bank (2005) to be 72% in 1990 but this figure continuously dropped and by 2002 access was estimated at 63%. In 2006 coverage had slipped further to 51% (MoWE, 2006). This negative trend is mainly attributed to accelerated urbanisation as well as a rampant rural-urban migration. The implications of population growth which is higher than financial and capacity growth trends in the sub-sector are that more investment is required in order to match overall sector growth with PEAP and MDG targets for 2015. Sanitation trends were recorded at 71% in 1990 and grew to 96% by 2002, World Bank Study, (2005).

4.1.2 Finance and Investment

Financing is a shared responsibility of government and its development partners while investment is implemented by public institutions; DWD for Small Towns and Rural areas and NWSC in large towns.

The water and sanitation sector has three main sources of funding; government funding (from the Treasury), donor funding (loans and grants), and internally generated funds (specifically referring to revenue generated by the provision of water and sewerage facilities).

- General budget support, which provides government with the maximum flexibility in allocating resources according to GoU strategic objectives and priorities
- Budget support earmarked to the Poverty Action Fund – mutually agreed upon between the Government and donors, taking into account aggregate expenditure ceilings
- Sector budget support (also called basket funding) – donor funds pooled together as “Joint Partnership fund” to implement agreed activities in an attempt to reduce transaction costs and simplify reporting procedures
- Project aid – addresses particular cases, e.g. large urban water project.
- NGOs and CBOs operate outside the GoU sector ceiling and generally access donor funding independently from Government. In general NGOs/CBOs have experienced difficulties in accessing GoU grant funds for the implementation of water and sanitation activities. The existing local Government procurement guidelines do not make any provision for NGOs to access these funds.

Diagram 1: Financing Trends for the WSS Sector

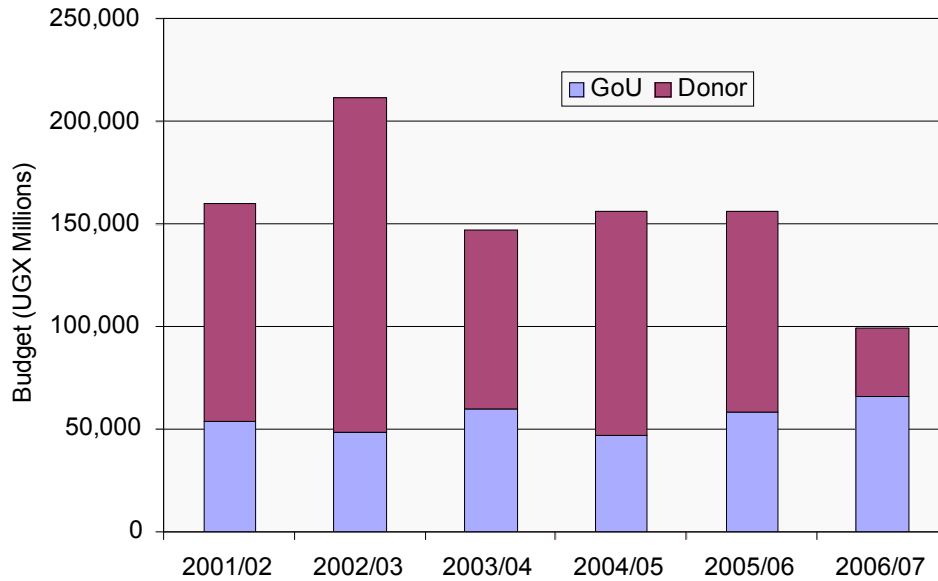


Diagram 1 (Sector Performance Report, 2006) above shows a sharp rise in financing from 2001/2 to 2002/3 followed with a general decline until 2006/7. It is evident that the sector has also heavily depended on donor funding. The financing trend coupled with a rapidly growing population points to the difficulty of keeping up with improved coverage levels and meeting MDGs and PEAP targets.

In the urban water supply sub-sector, the sector budget ceilings do not match Government's target to provide water and sanitation services to all people in gazetted towns with population above 5,000 persons and district headquarters by the year 2015. According to the SIP, urban WSS investment requirement to provide 100% coverage by 2015 is estimated at US\$ 38.1m per annum (Sector-wide Investment Plan of 2004). However, to achieve MDG targets for the whole country, it is estimated that Uganda's financing requirements amount to US\$ 242 million per annum for the next ten years. This amount includes US\$ 95 million for water supply and US\$ 147 for sanitation (*WSP Report; Getting Africa to Meet the MDGs on Water and Sanitation, 2006*).

Water and Sanitation are given high priority under pillar 4 (PEAP 2004) however according to this data, both government and donor financing fall below the financing requirements necessary to deliver MDGs and PEAP targets. Further, budgeted amounts have tended to vary from actual expenditure and in many instances delayed disbursement have constrained performance (*WSP Report; Getting Africa to Meet the MDGs on Water and Sanitation, 2006*). In addition to this distribution of disbursed resources is not equitable (*MoWE; Water Sector Performance Report, 2006*).

This situation points to the reality that the public sector alone cannot deliver on MDGs. This makes it paramount to evaluate alternative financing sources more realistically. Such sources will include private sector, NGOs and consumers. Issues of efficiency and effectiveness in resource use (finding out why per capita costs vary widely) and implementing pro-poor strategies will become important areas for review by UWSD under the different modes of supply. Further advocacy is required for increased budget allocation, investigation into rising operation and maintenance costs, finding a common ground with donors to provide realistic budget support, and ensuring disbursements are on schedule.

4.1.3 Management and Operations

While Management and Operations under public sector has been delegated to Local Governments and NWSC, investment as indicated earlier is a reserve of central government. It has been noted that wide variations exist in per capita costs for new systems and operational costs for existing ones. In recognition of these variations, the MoWE has commissioned a “Cost Variation Study” which is underway. The outcome of the study will establish the effectiveness of the public sector in managing investment. However, in examining modes of supply, it has become necessary to review functionality of water and sanitation systems and management costs nationally. Issues pertaining to this subject are discussed in more detail under the relevant institutions mandated with service delivery. In the large towns this is a public sector role/function and the responsibility of National Water and Sewerage Corporation.

4.2 NATIONAL WATER AND SEWERAGE CORPORATION

NWSC is a public entity established by the National Water and Sewerage Corporation Act (2000) and mandated to provide services in large towns under contract with the Ministry of Water and Environment. NWSC has had two phases of reforms: those that have been internally initiated and those externally imposed by government.

External reforms were driven by the performance contract signed with the government that set out conditions and targets covering five areas; water production and sewerage, water distribution, customer care services, revenue generation, and cost reduction. In return a Memorandum of Understanding was reached in which government agreed to freeze the debts owed by the corporation and commit to pay NWSC bills for water and sanitation services provided to government bodies. These reforms were influenced by the desire to make NWSC financially sound and attractive for privatisation (*Public Enterprises Reform and Divestiture Act, 1993*).

Earlier attempts to privatise some of the functions of NWSC such as management and revenue collection through contracts signed between the Corporation and international private water operators did not succeed (*NWSC Annual Report, 2005*). The first contract was between NWSC and JBG Gauff of Germany and the second one with ONDEO Services Ltd. Nonetheless some of the lessons learnt from this form of public and private sector interaction were that it required a comprehensive system of counterchecks and controls in order to work. These lessons were later to be incorporated into NWSC’s current management principles and have continued to influence the Corporation’s operational structures.

The NWSC has through these reforms been transformed from a previous poorly managed public utility to one of the most successful and recognised utility firms in Africa, extending consultancy services to other countries within the region. Internally the corporation has systematically restructured its service delivery units from a centralised management approach to delegated management systems. The Corporation’s service delivery is now a function of Internally Delegated Area Management Contracts (IDAMCs)

The evaluation made on IDAMCs, revealed that this option provided a viable option for arms-length management of delegated areas and is also based on partnership other than legalistic contract management; thus providing an alternative option for small operational areas where viability for PSP is low because of low economies of scale. It also added that a local dimension to the development and reform of the sector by building domestic capacity was being achieved. (*IDAMC Evaluation Report; Utility Reform Unit, 2003*).

A discussion paper by Water Aid (2003) on “the changing meaning of reforms in Uganda” however advances a number of questions about the reforms which have taken place in the water sector. It criticises the approach on the ground that the reforms have been built on a wrong principle i.e. to decrease the role of government by offloading most of the state burden while

increasing the private sector involvement. This criticism is based on the conceptual basis and objectives of the Public Enterprises Reform and Divestiture Act. Indeed the basis for reform and a target of this criticism is re-emphasized in the government pro-poor policy which argues that NGOs funding O&M costs constricts sustainability of water supply

4.2.1 Finance and Investment

Despite achievements recorded with the introduction of IDAMCs, a number of challenges have remained, including low capital injection into NWSC. NWSC is still heavily dependant on external funding for major capital investments and systems expansion⁴.

The table below shows financial commitments (budgeted and released) to NWSC for the year 2006/07:

Table 4.1
NWSC Project Budget (FY 2006/07)

Project	Donor	Budget		Released	
		GoU	Donor	GoU	Donor
Kampala Network Rehabilitation	KfW	0	4,660	0	2,011
Entebbe Water Supply Expansion	KfW	110	17,206	110	10,159
Gaba III Water	KfW	992	7,240	992	11,211
Urban Poor Project	KfW	0	5,500	0	186
IT Project	KfW	0	752	0	0
Transmission Mains for Gaba	KfW	1,258	12,100	1,258	7,752
Total		2,360	47,458	2,360	31,319

Source: Water and Sanitation Sector Performance Report, 2007

Locally generated resources, mainly from Capital Reserves, have often been ploughed-back into expanding the system particularly the design for the expansion of Gulu Water Supply System and the Mukono/Seeta Water Supply System extension (NWSC, Annual Report, 2005/06). Therefore the bulk of investments are financed by donors although it is necessary to recognise that the corporation is able to finance some of its projects.

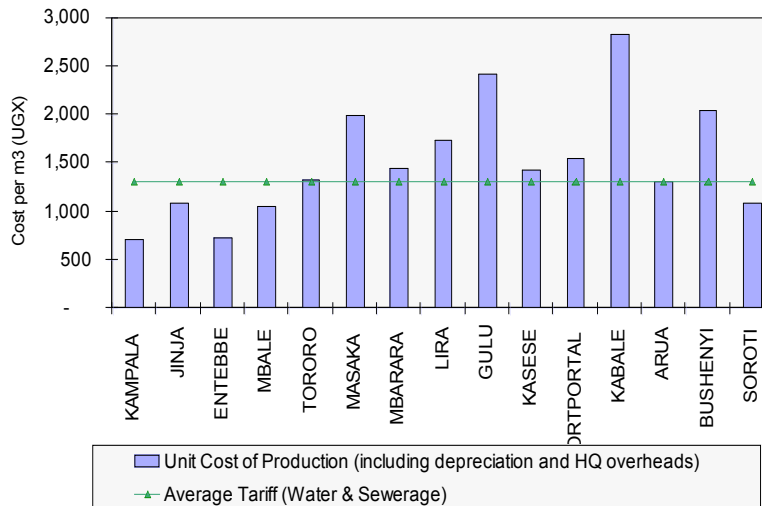
4.2.2 Management and Operations

The above constraints notwithstanding, NWSC as a public utility is able to use the benefits of economies of scale to charge a uniform tariff across towns and customer categories with different tariff bands. This advantage is effectively used as a cross subsidisation tool that is not available to private operators in small towns who have to charge a different tariff in each town. The higher efficiency level of NWSC combined with the economies of scale contributes to lower tariffs than those applicable in small towns. This set of facts raises the debate on whether the efficiency, size of the utility or the ownership i.e. public corporate not private can equitably deliver lower tariffs. The diagram below shows the cost of production and treatment of water and the tariff charged by NWSC for the different towns. A more elaborate analysis of small towns is provided under the chapter on private sector.

⁴ KfW

Tariffs are an important ingredient of service delivery as the major criticism for private sector engagement is premised on the desire to generate profits and hence the motivation for higher and increasing tariffs. The tariff for NWSC is however indexed to inflation rates and changes in cost of supplies and materials. It goes up over time when such costs increase. This tariff also includes a Value Added Tax component of 18%, a factor that should be taken into consideration especially where government commitments on prioritising the provision of safe and clean water to all under PEAP is concerned.

Diagram 4.2: Cost of Service Provision and Tariff Structure under NWSC⁵



From the diagram above it is clear that only five of the towns under National Water and Sewerage Corporation during the year of reporting were breaking even, though the uniform tariff remains applicable, hence a cross subsidy is provided to the other towns outside this category.

4.3 WATER AUTHORITIES IN SMALL TOWNS

Local Councils in Small Towns where water systems have been established operate under delegated mandates through performance contracts with the Minister responsible for water. Before entering into performance contracts, the urban local councils are gazetted (the authority delegated is officially published in the government gazette) as Water Authorities by the Minister responsible for water in accordance with the Water Act. This process effectively and lawfully makes urban local councils service providers. In pursuance of this mandate, however, the Performance Contract obliges Water Authorities to contract Private Operators for management, operation and maintenance of the water systems.

4.3.1 Finance and Investment

The bulk of funding for water supply and sanitation is provided by government or, through it, by donors (See Diagram 4.1). In some towns, donor financing is directly delivered. Government funding is disbursed in form of conditional grants to recipient districts and towns. Conditional Grants, for O&M are provided from the central government to subsidise O&M costs and undertake extensions to the systems. In the FY 2005/06, a total of UGX 1,421,151,000 was released to the towns; 39.5 % was used to top up the revenue collected in order to meet

⁵ Water Sector Performance Report, 2006

production costs and the remainder was used to undertake extensions and provide new connections (Sector Performance Report, 2006).

The current financing levels, coupled with population growth and urbanisation pressure (small towns experience sporadic population outburst resulting from establishment of piped water systems in addition to the normal growth trends) make it difficult to attain national MDG targets. Sector Performance Reports confirm a growing financing gap estimated at US \$ 381million which gap cannot be closed without additional funding commitments and sources.

Whereas financing is noted to be below the required levels, reports indicate that the per capita investment costs are on the increase which further constrains efforts towards attainment of MDGs. In recognition of this problem, the Ministry of Water and Environment commissioned a study (Cost Variation Study), which was still ongoing by the time of this report.

4.3.2 Management and Operations

In accordance with the Performance Contract obligations, management and operations in small towns is contracted to local private operators through management contracts with the Water Authorities. This aspect of service delivery is discussed in more detail under private sector in water supply.

A number of towns do not break-even i.e. do not meet their management, operational and maintenance costs, hence rely on central government transfers (Conditional Grants). The factors leading to this situation were established (*DWD, Tariff Review Study Report, 2005*) to include low customer base, operator inefficiencies, high electricity tariff rates, and inadequate storage capacity. It is reported that an increased proportion of operational costs in small towns is being covered by revenue (*MW&E, Sector Performance Report, 2006*)

Owing to the size of private operators in Small Towns there is no chance of benefiting from economies of scale. Equally they cannot implement a tariff structure that delivers any form of cross-subsidy across different consumer categories and towns as is the case with NWSC in large towns.

Data from the 57 towns indicates that only 17 break-even. The key reasons for the remaining 40 of the small towns not breaking even are:

- (i) Preliminary findings from the Tracking/Value for Money study (2006) indicate that a substantial part of the conditional grant is not accessed by the Private Operators (POs).
- (ii) There are cases where the Water Authorities lack capacity to audit the accounts of the private operator. In addition, the Water Authorities are not being audited financially. This is the responsibility of the auditor general. As a result, the quality of data from the private operator is not assured and transparency is lacking. There is need for an independent audit of their accounts.
- (iii) Utilisation of a payment model for private operators which is not based on performance.
- (iv) High production costs associated with the age and state of some systems leads to frequent breakdowns and limited replacement capacity.
- (v) Low customer base

(vi) Water quality problems increase costs for treatment

It is apparent that while improvements in collection efficiency have been registered, the general trend indicates that the unit cost of water has gone up for both identified and non-identified reasons. The unit cost for water in small towns is higher than for the large towns. This higher tariff in small towns has continued to negatively affect the accessibility of clean and safe water to the poor in the small towns. It should be noted that the cost of the water to the consumer is higher than the tariff when the water is not piped into the home (*Performance Sector Report, 2007*).

It is formally known that informal private operators and vendors exist. However, the scope and extent of their contribution in the water and sanitation sector has not been established and or documented. Any attempts to capture and assess this role to the water and sanitation sector will not only help in understanding their contribution but will also bring into perspective the requirements for enhancing efforts towards achieving sector targets and MDGs.

4.4 LOCAL GOVERNMENTS

Under the Rural Water and Sanitation Sector, Local Governments (Districts, Towns, and Sub-Counties) are empowered by the Local Governments Act (1997) for the provision of Water and Sanitation services. They receive grant funding and may use some of their locally mobilised resources to implement rural WSS programmes. Technical Support Units (TSUs) have been established to provide backstopping support to districts in implementation of water related programmes. The guiding principle for water provision in rural areas is the demand-driven approach. The presumption being that local communities once sensitised appreciate and therefore demand establishment of clean water sources.

4.4.1 Mobilisation and Sensitisation

Community Participation

Community participation, which has been presumed to come ahead of project implementation under the common theme of Demand Driven Approach, has received harsh criticisms from NGOs such as Water Aid and many other development partners. The main area of contention is the failed mobilisation of communities earmarked for a WSS project. The contention is that setting it as a prerequisite to project implementation is another way of further prejudicing the poor and disadvantaged communities (*Water Aid and Tear Fund, 2003*).

The result of this has been inadequate involvement of local communities in the planning, financing, implementation, monitoring and management of communal services. Insisting on mobilisation ahead of implementation in order to embrace demand-driven approaches has left many communities that fail to attain readiness or move slowly un-serviced. In many instances communities with vigilant politicians have had to be considered even where readiness has lacked. In cases where this has happened, questions have been raised (*Water Aid, 2003*) on whether it is still necessary to follow these orthodox demand-driven approaches and if so how they should be enforced.

Decentralised System of Approach

In a decentralised system, resources for mobilisation (logistical and human resources) need to be provided so that local governments can deal with community mobilisation activities ahead of implementation. Often this has been lacking and funds are only provided for making new installations and sometimes for maintenance (*Cranifield, 2003:14*). The recruitment of manpower to assist with community development work is handled by District Service Commissions who are controlled by the Ministry of Public Service. Bringing more human resources on board within this setting, considering that budget ceiling restrictions as well as maintaining a small but focused

public service is the mainstay of central government through the Ministry of Public Service, is a complex issue.

Post-construction activities pointing mainly to sustainable management of schemes requires that management units through Water User Committees and Associations be established and properly trained during the project life. Most of the time, mobilisation activities (formation of user committees and training them) have been conducted by consultants whose limited and definite time on the project is based on contracts which often expire before the user committees are fully aware of their roles. This has often led to failure in operation and maintenance of facilities.

Although there are major steps in attending to problems associated with inadequate capacity at the districts and lower levels to plan and implement sector activities, these problems are further compounded by discoveries that a big number of districts are a long way from coming in line with the national water sector coverage. It will be important to examine the dismal performance in districts that have not been disturbed by wars and insurgency (MoWE, 2006). Reports that some of the coordination mechanisms at the district level are either not formed or were only recently formed leads to weak coordination and management mechanisms at the respective level.

4.4.2 Finance and Investment

Financial gaps

Finance and Investment in rural areas is provided by the government, development partners, and NGO/CBO. It is in the rural areas where the NGO/CBO financing is more pronounced contributing to an estimate over 30% of the total water and sanitation sector outlay (*Sector Performance Report, 2007*). Further analysis on NGO/CBO is discussed in Section 5 ahead.

According to the sector performance report of 2006, the hope of attaining the PEAP target of 77% by 2015 is slowly diminishing in the rural water and sanitation sector where population growth is above 3% coupled with inadequate funding. The current investment gap established by DWD stands at an annual UGX 51 billions if the sector is to attain the 77% coverage target by 2015. Total District Water and Sanitation Conditional Grants (DWSCG) budget should be increased to put the sector back on track for attaining the PEAP and MDG targets.

Accelerating coverage in rural areas

Investment should be based on adequate and reliable information. There is critical need to reconcile the differences in approaches used to estimate access to improved water supplies and to reassess the methods used that consider more realistic walking distances and functionality (*MWE, 2006*). Ways to enhance rural water coverage that need urgent attention are:

- Expediting groundwater mapping by DWRM/MWE starting with districts with low water potential. This exercise will improve the success rates of boreholes and shallow wells, and promote shallow well construction where it is feasible but not yet practiced. More success in targeting water for deep wells will reduce the costs of providing this level of service.
- Procurement of larger drilling contracts which lead to economies of scale would not only involve a cluster of Districts but also the consent of the Public Procurement and Disposal of Assets Authority.
- Accelerated promotion of domestic rainwater harvesting where owners contribution can be stretched to as high as 60% that would lead to cost-saving thus freeing more resources for investment into facilities for the poor.
- Investigation into alternative low-cost water supply options such as household water treatment or infiltration galleries.

- Continue close monitoring of rural water supplies and sustainability in order not to decline. This will involve dedication of more resources (human, financial, technical) devoted to O&M issues. Further investigation into the factors leading to high or low functionality leading to critical sustainability factors was recommended by MWE in 2006.

4.4.3 Management and Operations

Sustainable management through user committees has often led to mixed returns. Management Units (Water User Groups, Water and Sanitation Committees, Water User Associations) established to manage water point sources have been effective in some areas and failed in others. Whether this has got to do with different technology options for water supply and sanitation as they differ from area to area is something to establish.

Despite the existence of TSUs, a study on strategies for support to private sector in rural areas (MWL&E, Cranfield University, 2003) noted the inadequate backstopping support to the districts i.e. lack extension staff, poor coordination of activities and programmes, and inadequate funding. This works to the detriment of establishing an effective and sustainable private sector management arrangement for rural schemes.

Reliance on government to provide support for O&M often leads to delays in attending to breakdowns. This is mainly caused by lack of innovation on the part of the users who fail to follow agreed management and financial plans. While all efforts are geared towards reducing the unserved rural population, it is also important to ensure that facilities constructed are sustainably managed. It is critical to understand the factors that have led to systems being properly looked after in some areas and not in others; is it due to lack of a network of extension workers or the availability of alternative water sources as the Sector Performance Report of 2006 asserts? It is certainly due to myriad factors that will require a comprehensive study to enumerate and rank their importance.

The use of inappropriate technologies and installation of sub-standard facilities (Afridev as opposed to other hand pumps) has been mentioned as a major reason for systems failure. This is reportedly a result of contracting private sector organisations to procure and install systems. The underlying justification for this argument is the private sector interest to minimise costs and maximise return without due regard to functionality and sustainability of systems (*Sector Performance Report, 2006*). It is for this reason that the Ministry recommended a centralised public procurement for equipment, key parts and spares for rural water supply systems. This recommendation however, cannot be validated especially given the increasing per capita investment costs in small towns where procurement is still centralised (see section 4.4.1).

It is evident from these reports and recommendations that the problems affecting service delivery in rural areas can neither be attributable to the private sector nor the public sector selectively but are a result of absence of an effective regulatory framework to provide an intermediating role necessary to check both private and public sectors.

In addition, there is limited documentation on the desegregation of roles for water supply and sanitation in rural areas amongst the different modes of supply; private (formal and informal) and public. This lack of documentation makes it difficult to assess the strength and weaknesses of either private, public or/and interaction of the two. This makes it necessary to undertake further studies in service provision modes especially informal private sector.

4.5 REGULATIONS IN WATER SUPPLY AND SANITATION

The Water Statute Cap 152, article 9 provides for among other things the establishment of various advisory and management organs. These include a Water Policy Committee (WPC), which is an advisory organ to the Minister responsible for water affairs. The minister's role also embraces setting national policies, standards and priorities, including coordinating revisions to sector legislation and regulations. Similarly the Water and Sanitation Sector Working Group (WSWG) chaired by the PS/MWE provides policy and technical guidance for sector development in the country. It comprises representatives from MoWE/DWD, NWSC, MoH, MES, MFEPD, development partners, and NGOs (represented by UWASNET). Sub-sector working groups under the WSWG are responsible for water for production and sanitation.

In the current decentralised set-up, District Water and Sanitation Coordination Committees (DWSCC) are established to oversee the implementation of WSS programmes, strengthen collaboration and coordination with related sectors such as education, health, social development and agriculture) and other players especially from the private sector and NGOs.

The Water Statute (1995) also provides for the formation of Water and Sanitation Committees (WSC), Water User Groups (WUG), and Water User Associations (WUA), as local community level organisations, to ensure the sustainability of the water supply and sanitation facilities. They are to ensure installed facilities remain functional through proper management, operation and maintenance by the user communities.

NGOs involved in water sector activities have formed a network, Uganda Water and Sanitation Network (UWASNET), to improve coordination of their activities in the sector. Through UWASNET NGOs have an opportunity to participate in various sectoral programmes. UWASNET is represented to the WSWG which is a higher organ responsible for policy and technical guidance for sector development. It also provides a framework for sharing experiences between members and the government (MWE, 2006).

It should be inferred that whereas all these forms of regulation exist, they only offer general responsibilities and the fact that they are fragmented across a wide institutional spectrum, offer very little regulation. Therefore, whereas institutional arrangements seem to offer a good foundation for regulation, this is not the case in practice.

The framework for regulation in place currently consists of the following instruments:

- Water Act
- Permitting for abstraction and discharge
- Declaration of water supply and sewerage areas
- Establishment of Water Policy Committee
- National Environment Statute
- Establishes NEMA for environmental regulation

- Public Health Act

These legal instruments are not backed by precise regulatory tools to regulate a number of activities (e.g. licences). The specific institutions involved in regulation and their respective roles are summarised below:

Directorate of Water Development (DWD)

- Sets and enforces service standards
- Issues abstraction and discharge permits
- Water quality monitoring
- Supervises water supply and sewerage authorities including NWSC
- Controls Capital Investment Program

NEMA

- Principal agency for environmental management
- Delegates some powers to DWD

NWSC

- Supposed to be regulated by DWD but “self regulates” in many respects
- Head office regulates Area Operation Offices through IDAMCs
- Ensures Uganda Bureau of Standards set national standards e.g. drinking water quality

Ministry of Health

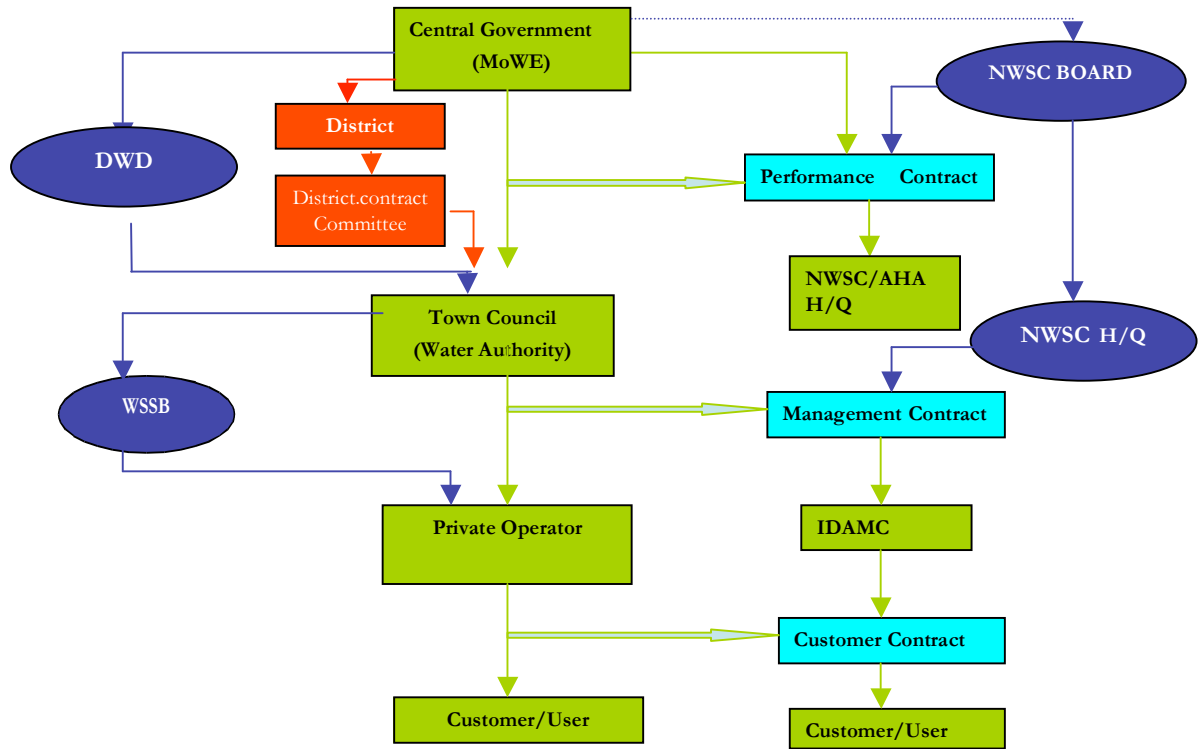
- Water quality monitoring

Ministry of Water and Environment

Minister approves tariffs

The following diagram summarises the institutional framework for regulation in water supply and sanitation in urban areas, where major reforms have taken place.

Institutional Framework for WSS Regulation in Urban Areas in Uganda



5 PRIVATE SECTOR IN UGANDA

The private sector in WSS is engaged in a number of activities at varying levels of engagement. This chapter traces the evolution and analyses private sector involvement from the perspective of sustainable and effective access to clean and safe water by consumers and implications for achievement of PEAP and MDG targets.

Private sector engagement in WSS is premised on the overall national economic policy framework that emphasises economic liberalisation and privatisation of public enterprises. The introduction of private operations in the water sector is linked to the privatisation of public enterprises under the Public Enterprises Reform and Divestiture Act. NWSC was one of the institutions listed for privatisation. Although the process of privatisation of NWSC has lagged, management of urban water supplies in small towns is largely a private sector undertaking.

Private companies are contracted for various activities in WSS including consulting services for the design of systems and contractors for the construction of schemes. Although key parts and materials (hand pump, pumps, bulk meter, pipes and fittings, etc.) for systems installation are still procured by government, the private sector is the only supplier. Private sector is also involved in operation and maintenance⁶ of water supply systems. Currently up to 98% of water supplies in small towns are under the management of POs⁷. In rural areas, infrastructure established for water supply is done by the private sector (*UWSD, 2005*).

5.1 FINANCING AND INVESTMENT

Financing and Investment in water supply is dominated by the public sector, especially in the formal and network-based systems, while sanitation is primarily a household concern in the form of onsite sanitation facilities. The different financing sources have been discussed separately under Water Authorities in small towns and Local Councils in rural areas (See chapter 4). There is limited authoritatively documented evidence of private sector investment in water supply systems. This could be partially a result of the Water Act which firmly places water supply systems ownership under the government for towns and the public in rural.

5.2 SYSTEMS DESIGN AND MANAGEMENT

Traditionally, systems design, construction, and management was by government bodies responsible for WSS. However, more recently when the 1997 Water Act came into force, the role of government was trimmed to national policies, regulation, standards and priorities for water development and management. Technical design and construction of water schemes is carried out by private sector firms and individuals. Private sector participation has also been extended to cover training and capacity building activities in water service delivery.

When systems are completed and commissioned, WAs are gazetted and POs are retained to manage, operate and maintain them in a sustainable manner. The various roles of the private sector are defined in Figure 1 (section 4.7.1) and the Standard Management Contract.

⁶ *Standard Management Contract, DWD*

⁷ *Small Towns Situation Analysis of Operational Environment Report*

Private water operators have been managing water systems since 2001 and sector reviews show that their involvement has led to significant performance improvements in terms of:

- Improved access to safe water and sanitation services, through increased connections to the piped water system
- Reduced interruption in service delivery as a result of improved maintenance systems
- Increased efficiency in billing and revenue collection
- Improved record keeping

5.3 MANAGEMENT AND OPERATIONS

General and detailed discussions on management and operations have been covered in Sections 4.3.2 and 4.4.3. Following the discussion above, there are other processes and procedural issues that have not been covered e.g. the procurement of POs and Management relationships. Arising from the performance contracts in section 4.3.2 and 4.4.3 private water operators are procured through a competitive bidding process and management oversight is done by the water supply boards. There have been recorded improvements in efficiency and effectiveness of POs in Small Towns (Water and Sanitation Sector Performance Reports 2006 and 2007). However, a number of shortcomings have been identified (*DWD/GTZ, Situation Analysis of Business Environment in Small Towns Report, 2006*) including poor understanding of roles and responsibilities of the different organs, poor contract management, and corruption. Fragmented regulation compounds the problem.

5.4 GOVERNANCE AND ACCOUNTABILITY

Introduction of the Private Sector for various roles (consulting, construction of systems, management and operation, etc) has brought improvements in sector performance (*Water and Sanitation Sector Performance Reports 2006 and 2007*) and helped to enhance the separation of roles as provided for in the reform strategy.

Increasing per capita costs, however, have been attributed to lack of transparency in procurement processes leading to corruption. Other malpractices include poor workmanship, installation of substandard equipment, inflation of costs, etc. (*Water and Sanitation Sector Performance Report, 2006*).

The reform strategy provided for the establishment of a regulator to handle (customer complaints, tariff setting, etc.). However, this has not happened to-date.

5.5 PRIVATE SECTOR - NON PROFIT MAKING

Private sector Not-for-profit in this report refers to Civil Society, Non-Governmental and Community Based Organisations. The different roles of these organisations vary from purely advocacy to functional service delivery. Many of them double these roles. The most influential organisations in the Water and Sanitation sector are those covered under the UWASNET umbrella organisation.

UWASNET is formally recognised in the sector, receives partial financing through the joint partnership fund, and submits annual reports to the Joint Sector Review Report.

5.5.1 CSOs in Water and Sanitation Service Delivery in Uganda

Since the water and sanitation reform process begun in early 1990s, a number of CSOs have come in as watchdogs or to supplement and monitor the government's efforts in the provision of water and sanitation services to underprivileged communities in Uganda. This is their contribution to poverty reduction and helping to realise MDGs by 2015. The responsibility is shared among different stakeholders including government organisations like DWD, NWSC, municipalities, private sector, CBOs as well as NGOs spread all over the country.

A number of NGOs are involved in the water and sanitation service delivery. They include Water Aid International (Uganda), Uganda Water and Sanitation NGO Network (UWASNET), Network for Water and Sanitation (NETWAS), Uganda Rain Water Association (URWA), Wera Development Association (WEDA), Busoga Trust, African Women Economic Policy Network (AWEPON), DENIVA and many others. There are over 190 NGOs and CBOs undertaking water and sanitation activities in Uganda that are members of UWASNET. CSOs/NGOs working in urban and rural areas have a variety of roles on the provision of physical infrastructure for water and the sensitisation, mobilisation and follow up of communities as well as lobbying for action and operating facilities.

5.5.2 Finance and Investment

NGOs and CBOs make a substantial contribution to financing and investment in the water and sanitation sector, totalling approximately 30% of the total sector investment (MW&E, Sector Performance Report, 2007). Although this is a major contribution, the structure and conditions for access are not elaborated. This makes it difficult to determine whether water and sanitation is a paid service or not and its consistency or lack thereof, with sector plans. It is generally recognised that NGOs and CBOs commonly set up community based water points which are then left to the respective communities to manage (UWASNET, Experiences of Water and Sanitation sector NGOs and CBOs in Uganda, 2005).

A study (*Financial Services for the Promotion of Poverty-Oriented Water Supply and Sanitation in Sub-Saharan Africa; Country Case Study – Uganda 2007*), however, notes that the water sector in Uganda is dominated by financing from government, donors and NGOs most of which is free. This, the study argues, hampers the growth of financing by the private sector and limits the leverage for further investment.

From the above perspectives it is clear that while the NGOs and CBOs offer a most deserved service in the sector, some schools of thought hold them responsible for constricting investment. This study does not provide any estimate of the potential financing and investment levels expected from the private sector that would adequately substitute that originating from the NGOs and CBOs. Owing to the large financing gap as discussed in section 4.3.1, any extra resources that would accrue from the private sector initiatives would only be complementary to and not substitutes to NGO/CBO investments.

5.5.3 Management and Operations

NGOs and CBOs assist by establishing water user groups and train user groups to manage and operate installed facilities. This is mainly done through awareness and sensitisation campaigns, effectively preparing them to assume management of the water sources and sanitation aspects.

It is noted that in areas where water and sanitation facilities have been handed over to the user committees, the interest of the committees is related to the economic return from managing the facility. Higher tariffs translate into higher returns and therefore more interest in managing the facilities. A reduction in cost of water that substantially reduces the revenue collected makes caretakers lose interest in water points and facilities and at times close them (*UWASNET Series 002, Experiences of Water and Sanitation Sector: NGOs and CBOs in Uganda, 2005*).

This case demonstrates that handing over facilities to user committees to manage is akin to establishing a private operator and the assumption that the communities will supervise (regulate) the committee is in theory. It is necessary to revisit this approach by appropriately re-defining the relationships between user committees and communities in order to establish more realistic regulatory approaches. Based on this study, the presumption that water and sanitation facilities provided by NGOs and CBOs will be accessed as a free resource is therefore inappropriate. To this end it is necessary to examine more realistic tariffs that enable the interaction between economic interests of WUCs and the realisation of sector objectives and targets on a sustainable basis.

6 EMERGING ISSUES AND RECOMMENDATIONS

6.1 EMERGING ISSUES

The case for the UWSD is premised on a review of controversies surrounding PSP through detailed research. The outcome of the Desk Study so far demonstrates that Uganda has adopted PSP in various forms and levels of facilitating access to water and sanitation services. The private sector is involved in systems design and construction, management contracts in Small Towns and public sector IDAMCs that are an adoption of PSP principles.

This study has not identified specific research studies that sufficiently document controversy surrounding PSP in Uganda. On the contrary, sector studies such as a Public Opinion Survey Report 2006 and the Background to the Reform Strategy, 2003, indicate that there is general consensus on PSP in WSS. These studies were commissioned by the Government at a time when sector reform implementation towards PSP was either on-going or about to be implemented. This may have influenced the outcomes. However, issues raised by most of the studies reviewed point to areas where further improvements are required rather than which mode of supply offers the opportunity for service to the poor.

The main issues arising from the study on the different modes of supply are enumerated here below.

- Policy implementation introduced private sector through management contracts. However, the Water Act as the policy document does not adequately provide for it. This leaves gaps for strengthening roles and obligations.
- There is no evidence that the financing trends under the current arrangement; public, formal private providers, and NGO, will lead to the realisation of MDGs for water and sanitation.
- The traditional role of women and children has been highlighted in policy documentation but effective implementation has lagged.

- Separation of roles i.e. asset holding, regulation and service provision are still a major issue. This is provided for under the water and sanitation reform strategy but has not happened despite research indicating the need.
- A number of Regulatory instruments and institutions are provided for and some exist but their effectiveness is still questionable. This leads to continuous studies for a more effective sector regulatory framework. This leads to lack of documented evidence of public accountability in relation to tariff setting and either insufficient supply or water quality concerns.
- Governance, especially with respect to corruption in procurement and contract management, ineffective and inefficient implementation of procurement rules, and practices needs to be addressed. This is, however, only documented with reference to tendering and procurement of POs.
- Sanitation issues continue to be at the periphery of the Water Policy, the Water Act and institutional arrangements.
- Inadequate technical, human, financial and logistical capacity especially with respect to POs has been documented, including limitations in terms of technical consulting services.
- So far no authoritative studies have been found on informal service providers/vendors although it is common knowledge that this sub-sector exists and services a big population.

6.2 RECOMMENDATIONS

There is evidence from the study and emerging issues therein that a number of areas with respect to PSP have fair consensus. Areas that need to be addressed through the UWSD are common to the different modes of supply in Uganda. Some areas may require dialogue and advocacy to improve the environment while others need more research to establish their contribution to MDGs.

6.2.1 Proposed Issues for Advocacy

- Improvement of the policy environment for POs (formal and Informal), including WUCs, to increase their incentive to perform better.
- More effective implementation of existing regulatory instruments as studies go on for an appropriate regulatory framework including tariff setting across the board whether for public, private for profit, or NGO provision.
- Zero rating of Value Added Tax on water tariffs to reduce the cost of access for the poor.
- Refocus of policy implementation to deliver effective gender equity under both public and private sector modes of supply.
- Formulation of a separate policy for sanitation to refocus sanitation efforts in the sector.

- Better Governance in order to deal with governance issues, especially corruption and poor contract management.

6.2.2 Further Research Areas

- Scaling up Investment and financing for infrastructure (to examine the case for wider public or private sector financing, the relationship thereof, and implications for increased service delivery).
- The role and scope of Informal Private Service Providers and their contribution to the attainment of MDGs with respect to service to the poor.
- The case for delayed implementation of effective sector regulation.

6.2 CONCLUSION

The case for a review was premised on the conflicts surrounding PSP in WSS in 2001. Over the years various changes have taken place in the policy environment globally and in Uganda which has implemented PSP in the WSS sector for close to ten years now. Considering the achievements made by both the public and private sector in Uganda's WSS sector and the bimodal service delivery (private and public) it is important for the UWSD's to review the agenda of detailed research and establish its relevance and contribution to increasing water and sanitation provision. The existing financing gap provides an opportunity for service delivery outside the "either public or private sector" debate.

The above notwithstanding, a study on financing for infrastructure as recommended above, with well structured terms of reference could capture whether there is any underlying controversy that may be hindering investment by the private sector given the gap arising from the current financing priorities of the public sector. The study could also examine why the policy and legal framework did not provide for private sector investment in infrastructure, determine whether this had to do with PSP controversy at the time of framing the policy, and analyse if such controversy were existent then, it remains an issue for policy change.

It may be have been concluded by sector stakeholders that there is consensus on PSP whereas not. Resources permitting, this will be a useful study for the Uganda Water and Sanitation Dialogue that may be undertaken concurrently with advocacy issues identified and recommended above.

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