

**DEPARTMENT FOR INTERNATIONAL  
DEVELOPMENT**

**ENGINEERING KNOWLEDGE AND RESEARCH  
PROGRAMME**

**SMALL SCALE PRIVATE SECTOR PARTICIPATION  
IN THE RURAL WATER SUPPLY SECTOR**

**R8335**

**KNOWLEDGE REVIEW**



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## LIST OF ACRONYMS

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ASCA	Accumulating Savings and Credit Associations
BDS	Business Development Services
BDS	Business Development Services
CBO	Community Based Organisation
CIDA	Canadian International Development Agency
CWSA	Community Water and Sanitation Agency (Ghana)
CWSP	Community Water and Sanitation Project
DA	District Assembly (Ghana)
DANIDA	Danish International Development Agency
DFID	Department for International Development
DISS	Department of Infrastructure and Support Services (Zambia)
DRA	Demand Responsive Approach
DWAF	Department of Water Affairs and Forestry
D-WASHE	District Water and Sanitation Hygiene Education team
DWST	District Water & Sanitation Team
ESA	External Support Agency
EU	European Union
GOG	Government of Ghana
GTZ	Gesellschaft für Technische Zusammenarbeit GmbH
GWCL	Ghana Water Company Ltd
GWP	Global Water Partnership
HIPC	Highly Indebted Poor Country
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDA	International Development Association
IFI	International Finance Institution
IMF	International Monetary Fund
ITC	Intermediate Technology Consultants
IWRM	Integrated water Resources Management
JICA	Japan International Corporation Agency
KfW	Kreditanstalt für Wiederaufbau
LI	Legislative Instrument
MDG	Millennium Development Goal
MFI	Micro Finance Institution
MLGH	Ministry of Local Government and Housing (Zambia)
NGO	Non-Governmental Organisation
NLG	Netherlands Guilders
O&M	Operation and Maintenance
ODA	Official Development Assistance

PMC	Project Management Committee
PO	Partner Organisation
RoSCA	Rotating Saving and Credit Associations
RWE	Regional Water Engineer (Tanzania)
SME	Small and Medium size Enterprise
SSA	Sub Sector Analysis
TA	Technical Assistance
UK	United Kingdom
WATSAN	Water and Sanitation
WMC	Water Management Consultants
WRC	Water Resources Commission (Ghana)
WSS	Water Supply and Sanitation

## 1 INTRODUCTION

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### 1.1 Objectives of this review

This document is the first report to be produced under the study entitled ‘Small scale private sector participation in the rural water supply sector’ (R8335). The purpose of the study is to enhance the effective participation of the small scale, rural-based, private sector in rural water supply service provision through the production and dissemination of best practice guidelines.

The study is investigating reform in the rural water supply sector. It aims to contribute to achieving sustainable rural water supplies through improvement of the institutional environment in which rural-based small and medium sized enterprises (SMEs) may become more numerous and more effective providers of services in the rural water sector. Since the reforms affecting the rural water sector have financial, legal and institutional dimensions, the study focuses on mechanisms that governments can use for building their own capacity to enable and regulate service providers in rural areas.

This report presents a review of published and unpublished material concerning SMEs in rural areas and financing and legal aspects of reform in the rural water sector. The review has been carried out at two levels: the international level and at country level, in the three countries in which the project is working - Ghana, Tanzania and Zambia.

The review forms an input to the Phase 1 Inception Report (R8335/1788/R2) of the study. The objective is to provide the basis for planning the survey work to be carried out in Phase 2-Surveys. This review and the surveys are intended to provide the supporting information on which the guidelines (to be produced in Phase 3-Analysis and Dissemination) will be based.

### 1.2 Which private sector?

The term ‘private sector’ potentially includes a wide range of organisations, from trans-national companies to one-man operations whose main objective is to make a living. In professional terms, private enterprises providing services in the water sector can include consultants, drilling contractors, construction firms, providers of training and financial management services, individual builders, plumbers, electricians and casual labourers. NGOs and CBOs are also noted to provide similar services to some small enterprises, although with different operational characteristics.

Most private enterprises are urban-based and most provide services in urban areas. Indeed, most research and working experience with the private sector has involved providers, mainly large but sometimes small, in urban and peri-urban areas. This study is concerned with service provision in rural areas, we are primarily interested in small scale, rural-based providers. These will be the subject of the guidelines to be produced in Phase 3 of the study. The study aims to contribute to understanding the rural business environment and to produce guidelines for the use by the different stakeholder groups as a means to catalyse government-stakeholder interaction to enhance the growth of rural-based SMEs.

### **1.3 The changing role of government**

The private sector is increasingly viewed by donors and governments as a potential source of skills and labour to be available to governments and communities for the development and maintenance of improved rural (and urban) water supplies. The involvement of private providers is seen as a means to significantly contribute to increasing the coverage and quality of public water supply and sanitation services; and helping to meet the Millennium Development Goals.

Over the past four decades emphasis has been placed by donors and governments on building the state's capacity to provide public services. The private sector has not developed to any great extent in most southern countries. As a result the private sector has not, traditionally, been viewed as a provider of public services. Consequently, legal and institutional frameworks for involving the private sector in service provision are relatively under developed and often restrictive on private sector operators. Lack of emphasis by governments on the recovery of costs of providing services has led to shortages of public funds with which to maintain service provision. This, in the case of water supplies, has led to, for example, long periods following breakdowns of infrastructure before repairs are carried out, resulting in a deterioration in quality of service and reduced access by the public to safe water supplies and increased risk of contracting water-borne or water-washed disease.

Financial difficulties and shortages of qualified personnel (caused by cuts in public sector spending) have caused governments to re-evaluate their role in service provision. Increasingly, governments are planning to adopt the role of facilitator, coordinator and regulator of service providers. In the water sector NGOs as well as private enterprises are seen as the organisations who can take the role of service providers. There will be a critical period while governments are withdrawing from implementation and the private sector is entering the arena during which water supply coverage may decline. The quicker that reform takes place and the private sector are 'enabled' the shorter the critical period will be.

Most change involving private sector participation in infrastructure provision has taken place in the urban sector over the last ten years, driven both by governments and by donors. Most of the focus on the private sector, both intellectually and financially, continues to be on large formal providers, even when small providers are acknowledged (De Lucia and Associates 2001). For example, the World Bank, through the Public-Private Infrastructure Advisory Facility (PPIAF) ([www.ppiaf.org](http://www.ppiaf.org)), which is aimed at helping developing countries improve the quality of their infrastructure through private sector involvement, is investigating the private provision of water and other services for the rural poor. Most of PPIAF's work focuses on investigating the provision of services by urban-based service providers and utilities, not rural-based providers as proposed by this study. PPIAF's research, including work done in Ghana (PPIAF undated) suggests that it is possible for urban-based service providers to provide water services to small population centres, although in practice this is only happening sporadically due to the lack of commercial incentives.

Reform in the rural water sector, the subject of this study, has been comparatively slow to take place. This study investigates the nature of the reforms that are taking place and seeks to assist governments to lead the development of guidelines to facilitate the involvement of the private sector in rural areas and to make the contribution of the private sector to development of rural water supplies more effective. In other words, to enhance participation by SMEs in order to improve the provision of rural water supply services, achieve greater access to safe water supplies, reduced incidence of water-related disease and greater economic productivity (through having more water or more time for productive activities) in rural areas.

The three key areas comprising the 'enabling environment' that affects the small private sector include:

- The financial environment, which controls the availability of capital and cost recovery arrangements, including tariffs and subsidies.
- The legal framework, which defines institutional roles, the framework for contractual procedures and responsibilities, and the regulatory environment, which controls the quality of service and prices.
- The institutional framework, which shapes the interactions between all actors in the process of developing rural water supplies.

This report reviews developments in these three areas.

#### **1.4 Structure of this review**

The report has been structured so as to provide a systematic review of the key aspects concerning private sector participation in rural water supply service provision. Section 2 reviews knowledge of rural enterprises, the nature and characteristics of private enterprise in rural areas and the constraints under which they operate that have a bearing on their potential role as service providers. Section 2 also looks at the range of roles in rural water supply that are most suited to being carried out by private operators.

Section 3 reviews rural enterprises and finance, the driving forces and characteristics of the current strategy for financing rural water supply development. Future sources of sector finance and sources of uncertainty are discussed. Experience of rural water finance issues in Ghana, Tanzania and Zambia is reviewed and, finally, needs and gaps in knowledge are summarised.

Section 4 reviews experience of the legal basis for water service provision in rural areas. The legal basis of contracts and of water rights is reviewed with a view to identifying areas requiring strengthening. Knowledge and experience of these aspects is then reviewed in each of the study countries. Key needs are identified.

Section 5 reviews experience of institutional and regulatory aspects of reform of the rural water sector, particularly the tools used to analyse the role of sector institutions and forms of regulation that are suitable for rural areas. Knowledge and experience of these aspects is then reviewed in each of the study countries. Key needs are identified.

Section 6 forms a commentary on the situation in the study countries in relation to the private sector and identifies some implications for the project, based on the knowledge review.

## 2 SMALL AND MEDIUM SIZE ENTERPRISE IN RURAL AREAS

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### 2.1 Nature and characteristics of small, rural based enterprises

Small enterprises in rural areas encompass a wide variety of scenarios and typologies. Generalities are difficult to draw between them. They may be anywhere on a scale from a single owner working informally (without business registration) on a subsistence level to a thriving, formally operated enterprise employing several staff members and having substantial turnover and assets as compared to the surrounding average income levels.

If trends are to be drawn then it can be stated that most enterprises are informal, use informal sources of labour such as family members and relatives, perhaps using casual labourers at peak times, have little access to business support mechanisms, business development services or credit and view working with government and public bodies as something to be avoided. Harper (2000) states that *“often the private sector is used to working in spite of government opposition. The concept of working with the public sector is quite foreign to them and most government officers would respond negatively towards an entrepreneur who suggested he could do part of their job better than they could”*.

It is widely acknowledged that SMEs in the context of the informal economy are the largest creator of employment. Sohail *et al* (2003) notes that SMEs have proven records of being flexible, and responsive to their customers demands, leading to better prospects of sustainability. They operate in very constrained markets but also help in creating new markets. The informal activities of SMEs often do not show up in official statistics despite the fact that the autonomous, indigenous small enterprises are a relatively important provider of services in almost all African countries. SMEs often fill market niches through the development of innovative technologies and, applying their competitive advantage to reach the poorest, overcome the physical constraints of servicing those in areas of low population density and engage in services that help people. SMEs may also increase incomes, control over income, improve knowledge, provide better skills in trades, increase participation in local decision-making, and enhance their status in the local community.

### 2.2 Nature and characteristics of service provision in the rural context

Service provision in the rural sector in general has been a problem that successive governments have struggled with for decades. Many public services in developing countries are in disarray. Power cuts are endemic, there are not enough primary schools and those that exist are understaffed and badly managed, water supplies are polluted or non-existent, public transport is unreliable and unsafe etc. Various methods have been applied worldwide ranging from governments taking full control of providing and operating all services, through to privatisation and the emergence of the private sector and market forces as the dominant suppliers in infrastructure provision in both urban and rural areas.

Each approach to service provision has its problems and opponents, but it would be fair to say that western governments, having seen the success and efficiencies of privatisation of services in Europe and America are keen to see the private sector more involved in infrastructure provision in developing countries. This has been amplified by the general failure of developing nations to provide rural services to their populations. To do this they have faced huge problems. Rural populations are often extremely dispersed over large areas, the existing infrastructure is under developed, there are problems with outreach and staffing in remote areas for government departments in charge of the services, and lastly budgets are small, and often under pressure from urban areas where the needs are as acute, the populations as large but concentrated in much smaller areas. Politicians have long since known about the problems in service provision in rural areas, and are keen to put forward ideas in their manifestos that promise lower charges, better service and increased outreach. These promises however are soon forgotten after elections, leaving rural populations as underserved as before. Even when investment in services has been forthcoming from the state, donors, NGOs and others, the lack of capacity building and investment in management and operational maintenance often means that the system only functions for a small percentage of its original lifespan. In these situations Ehrhardt (2000) has noticed that private participation has generally been successful in reducing costs and increasing investment in utilities, yet governments and donors continue to focus intellectually and financially on large private providers, even when acknowledging the impact small enterprises can have on the quality, outreach and affordability of services (De Lucia and Associates 2001).

### 2.3 Constraints to SMEs in the rural context

Small enterprises face a raft of constraints to operating in a harsh economic environment. The infrastructure needed for enterprises is often lacking or suffers from reliability problems, the supply of business information is poor and population migration to urban areas affects enterprise through a lower customer base and difficulties in getting and holding on to staff. The fact that rural economies are generally weaker also affects enterprises, as does the overwhelming reliance on agriculture in rural areas which causes problems for all rural dwellers in difficult times when harvests fail. The constraints that this places on rural enterprises has been well documented and can be briefly summarised as falling under one of the topics below (Levitsky 1989, English and Henault 1995, Harper and Svyakarnam 1998, Harper 1984):

**Management** – Issues such as basic business management, stock control, pricing, accounting and other issues all can constrain business development.

**Technical** – Basic educational skills such as numeracy, and reading are precursors to SMEs receiving other skills, apart from training as apprentices. Any technical training in rural areas is highly over subscribed and is often not geared to existing enterprises wishing to upgrade their skills, rather to those wishing to find a trade or to retrenched workers.

**Financial** – These constraints are always acknowledged by entrepreneurs as the biggest constraint on their business. Whether it is capital required for starting a business, finance needed for working capital or asset finance needed to invest in a business, it is generally difficult to acquire.



**Regulation** – Regulation is perceived by SMEs as being costly and burdensome licensing, as having shortcomings in those enforcing regulations as they are often service providers themselves, and suffering from authorities who turn a blind eye to illegal operators and often extort fees illegally from them. Regulation is often required to access formal lines of credit, compete for public tenders, and develop relationships with formal providers.

**Information** – Information flows and exchange are much poorer in rural areas than in urban areas, and enterprises do suffer from poor information on a variety of issues.

Other areas worthy of mention as particular constraints to small enterprises providing infrastructure services are (Snell 1998):

- The need for transparent procedures for handling money and ensuring accountability.
- Mounting arrears due to penalties for non-payment of bills.
- Problems with robbery and 'pirate' connections.
- Security in the face of either unfair competition from public (subsidised) providers or outright confiscation.

Despite these constraints, small enterprises operate in niche markets where their flexibility and cost and scale of operation enable them to provide a service to local populations. Their current role and impact is not disputed, but answers over their future roles and how they can operate in conjunction with other players (local authorities, larger private enterprises, NGOs and communities) in providing sustainable rural services are still unresolved.

The private sector may be viewed as a link in a supply chain (Oyo 2001). The Supply Chains Initiative, led by the Water and Sanitation Program (WSP) of the World Bank/UNDP ([www.wsp.org](http://www.wsp.org)) aims to develop practical tools that enable and encourage the private sector to provide goods and services related to rural water supply and sanitation. The initiative's first phase, which ended in 2001, focused on increasing the understanding of the dynamics of supply chains for handpumps and spare parts. As a supplier of goods (eg spare parts and technology) and services (eg, repair services, training, facility management and even financial services) SMEs form part of supply chains that link suppliers - (private sector) manufacturers or service providers - to customers, perhaps via (private sector) distributors. Based on twelve case studies in south Asia, sub-Saharan Africa and Latin America five key factors are identified that should exist for SMEs to set up strong (successful) supply chains:

- 1) Sufficient Demand (need for and understanding of the service and the ability of customers to pay).
- 2) Effective incentives (scope for profit).
- 3) Effective information flow (awareness of business opportunities).
- 4) Effective supply chain management (building relationships and improving communications).

- 5) An enabling environment, comprising the following factors (Hallberg 2000):
- A stable macro-economic situation and an open trade investment regime.
  - A competitive financial sector allowing access to finance and reduced state intervention in pricing (regulation).
  - Good physical transport and communications infrastructure.

Effective support mechanisms in the form of business advisory services are also identified as being important 'enabling' factors (Oyo 2001).

The idea of supply chains therefore offers a concept for understanding the dynamics of SMEs in terms of linkages between suppliers and customers and can form the basis for further investigations into the factors behind the presence/absence, success or otherwise of SMEs providing goods and services.

The sustainable livelihoods approach offers another means of understanding the constraints affecting the small private sector. A sustainable livelihoods approach is a relatively recent development which focuses attention on the forms of capital (natural, human, social, physical and financial) available to people, how other structures and process affect peoples livelihoods, and how all these are developed into strategies for avoiding vulnerability and developing livelihoods. A widely accepted outcome of a livelihoods approach is that it can provide a greater understanding of the multiple dimensions of ways of making a living.

A livelihoods approach has recently been effectively used on a number of occasions in the water sector, although not in the context of the private sector in the rural water sector. For example, by using livelihoods principles and concepts in the design a watershed management programme in Orissa State, India, priorities for supporting directions of change were identified (Turton 2000). A sustainable livelihoods approach to drought and water security in Ethiopia has recently been taken by the British Geological Survey in the KaR project 'Groundwater drought early warning for vulnerable areas'. The DFID funded securewater project ([www.securewater.org](http://www.securewater.org)) is using a sustainable livelihoods approach to address issues surrounding access to water and the livelihood assets and strategies of the poor in order to inform the development and implementation of more effective demand responsive approaches to rural water supply development. A livelihoods approach carried out in the present project should be able to provide insights into the way small businesses develop and the features of the enabling environment that are important to them.

## **2.4 Private sector activities in rural water supply**

The private sector may be viewed as one of a range of stakeholders that exist and interact at an intermediate level between the national level and the community. Intermediate-level actors are most likely to interact with communities on a day to day basis in the development, operation and maintenance of water supplies. Other key intermediate-level actors are local-level state actors and grassroots NGOs and CBOs. The various actors are suited to different roles. Table 2.1 lists the activities that are most likely to be suited to the various actors. Local government is seen as the driver of the overall process of developing water supplies. The private sector potentially has a wide range of roles. Many of these roles can also be carried out by NGOs and CBOs. Who does what in any particular location will be very much dependent on local circumstances.

**Table 2.1 Key intermediate-level actors and activities in support of community-managed water systems (from Schouten and Moriarty 2003).**

Activity	Line Ministry	Local Government	NGO / CBO	Private	Regulator
<b>Overall process</b>		•			
<b>Implementation and renewal/expansion</b>					
System design	•			•	
Construction				•	
Technical capacity building	•			•	
Management capacity building				•	
Financial capacity building				•	
Contract development	•	•			
<b>Operation</b>					
Technical capacity maintenance	•		•	•	
Management skills maintenance			•	•	
Financial skills maintenance			•	•	
Facilitation/negotiation			•	•	
System operation and maintenance (when contracted out)			•	•	
Spare parts supply				•	
Monitoring		•			•
Financial support		•			•
Contract enforcement		•			•

None of the actors in Table 2.1 should act in isolation, but ideally form a network of support to communities. The enabling environment which facilitates this interaction is comprises the financial, legal and institutional environment which exists at all levels. The following three sections review these three aspects of the enabling environment, identifying their nature and characteristics in relation to private sector service provision in rural water supply, and gaps in knowledge that the present project can contribute to filling.

The literature presents a number of models of business development procedures which include the Business Development Services (BDS) model (ILO undated), which is currently being developed in the Dodoma region of Tanzania by the Regional Water Engineer and WaterAid in conjunction with villages and small enterprise, and a more generic World Bank model which identifies the contract as the key regulating model (World Bank 2003c).



### 3 FINANCING RURAL WATER SUPPLY SERVICES

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#### 3.1 Introduction

This section starts by reviewing the relationship between small enterprise and finance. The section then turns to the larger scale environment for finance with a view to identifying the main future sources of finance for the rural water sector and the various uncertainties and risks that exist.

#### 3.2 Rural enterprises and finance

Enterprises in rural areas often have little access to formal finance. Informal finance and lending, either from known money lenders, family members or through established community savings groups (RoSCAs and ASCAs) are all ways in which small enterprises can get access to finance. Wakelin (2000) noticed that over 70% of rural based enterprises use their own savings to initially start their business. Nearly 20% then borrow money from family members. In some areas rural banks do operate, and rural enterprises do use banks to keep and save their money, but few either want to or are able to access loans from them. Although interest rates are probably lower than for informal money lending, the terms and conditions are strict, requiring collateral for the loan, perhaps land title or freehold and even registration documents for the business. Even if enterprises are able to get these loans, some may feel that they are too restrictive, that repayments must be made and the person does not want to risk his collateral on the business (Churchill 2002).

Micro Finance Institutions (MFIs) have had varying degrees of success in bridging the gap between informal money lenders and formal banks. How much effect these have actually had on the ability of small enterprises to grow is still the focus for some debate. Even in the presence of very high coverage and repayment rates and positive sustainability ratings, impact cannot be taken for granted (Dawson and Jeans 1997). The size of loans available for investment, the terms and conditions of the loans and the administrative burdens (such as attendance at weekly group meetings) are all factors that can make MFI loans not suitable for Small enterprises. Havers (1999) argues *“It seems to be generally agreed that there is a financing gap between the micro loans commonly provided to subsistence enterprises by aid-funded microfinance institutions and the commercial bank loans which are available to well established and capitalized small scale enterprises operating in the formal sector.”*

If small enterprises need money for asset financing or start up capital they may find MFIs unable to service their needs. MFIs provide short term financing that is designed primarily to meet the working capital needs of micro enterprises. In most instances, MFIs in East Africa provide progressively larger loans to their clients who are organised into solidarity groups. Each loan cycle usually has a cap on the maximum amount of money a client can access as a loan. In addition, the ability of the client to access a loan is usually contingent on the performance of the other members of the solidarity group. While this is not the most efficient financing mechanism, many MFI clients will use it to finance assets because it is the only available option. However, clients have to go through several loan cycles before they can have adequate financing to purchase an asset they need.

Any involvement of small enterprises in infrastructure provision needs to make sure there are adequate mechanisms available for asset and working capital finance. This can be done through existing finance institutions, leasing of the water infrastructure the SME needs, by contract holders providing partial collateral for an SME loan or other innovative mechanisms.

The review now turns to the wider picture concerning the driving forces and the current strategy for financing the rural water sector.

### **3.3 What are the driving factors for financing rural water supplies?**

There is a clear difference expressed in the international literature between the rationale for investing in urban water supplies and that for investing in rural supplies in developing countries. Whilst investment in urban supplies has been seen to be an attractive commercial opportunity for large scale privatisation, current experience is showing that this trend is stagnating and subject to a range of significant risks (Hall 2002, OECD 2003). The literature is consistent in its understanding that such large scale privatisation is currently an inappropriate approach to developing the rural water sector (Agenda 21 1992, Minogue 2002, Wateraid & Tearfund 2003).

The rationale for investing in rural water supply development is found in human rights and social and economic obligations (UNESCO 2002, Scanlon et al 2003). Developing rural water supplies primarily aims to realise access, affordability and equity with particular emphasis upon targeting the poor, and does not stress any commercial objectives beyond cost recovery (UNESCO 2002, Camdessus 2003, DFID 2001). The approach requires key financial issues to be addressed through national water policy if it is to succeed. In particular an affordable tariff for the poor must be established and the means to then subsidise full cost recovery in the event of a short fall are identified as state responsibilities (World Water Council 2000, Foster et al 2000 UNESCO 2002, Mitlin 2002).

The international community has established Millennium Development Goals (MDGs) against which to gauge investment and progress (UNDP 2000). Within MDG 7 to "Ensure environmental sustainability" is found target 10 - "to halve by 2015 the proportion of people without sustainable access to safe drinking water." Whilst target 10 has been argued to be both feasible and on track, it is "five time less ambitious" than the notion of universal access and even when 'average progress' meets this target "the situation for disadvantaged groups is stagnant or deteriorating" (Vandemoortle, 2001). This means that the MDG targets could be satisfied without necessarily achieving access for the poorest sectors of society.

Concern regarding the lack of an adequate response from the international community was summarised by Gleick in 1999 when he wrote that “*our inability to meet the most basic water requirements of billions of people... resulted in enormous human suffering and tragedy and may be remembered as our century’s greatest failure*” (Gleick 1999). Whilst such concern has led to significant developments in the legal field, the current response in terms of financing and commitment to reform is described as “failing utterly to put forward the needed effort”; the present rate of investment for water supply will not even reach half of the MDG target by 2015 (CIGI/WEF 2004 ).

### **3.4 What are the characteristics of the rural water financing strategy?**

The World Panel on Financing Water Infrastructure was given the task of addressing the ways and means of attracting new financial resources to the water sector and preparing proposals to influence the financing and enabling environment that could realise investment in the water sector; their report was published in 2003 (Camdessus 2003). The Panel oriented itself towards the MDGs and extensively reviewed existing as well as proposed strategies. Their report represents the single most comprehensive and consolidated international view of the future for financing rural water supply development presently available.

The administration of rural water financing by local level government forms the mainstay of the strategy, and this approach is widely endorsed in the literature (World Water Council 2000, World Bank 2003a, World Bank 2003c, Bonn 2001, DFID 2001). For many years water sector reforms have sought to put the local administration as providers of an enabling environment rather than being directly responsible for construction and O&M of water projects. This process will clearly be accelerated by having finance and the authority to administer it at the local level.

During the 1990s 65–70% of water sector financing worldwide came from domestic public sources, with international donors contributing 10–15%, international private companies providing 10–15% and the domestic private sector contributing 5% (Briscoe 1999, Camdessus 2003, Hall 2003a). Therefore this new strategy does not seek to change who invests in water, it seeks to make local government the most effective route for channelling any form of rural water finance.

For the strategy to be effective the literature argues that two key conditions must be fulfilled. Firstly, it should be possible to make local government an efficient and accountable manager of funds and programmes, and secondly it must be possible for a range of local stakeholders to access water finance and use it effectively to increase service coverage (Bonn 2001, DFID 2001). Whilst improving the efficiency of water sector financing seeks to reduced the requirement for new investment, it is recognised that additional investments will still be required.

### 3.5 What are the future sources of financing for rural water supply?

Public sector financing of water, whilst being the predominant historic source of investment has not grown in recent time (Bonn 2001). Consequently a range of recent developments seek to direct increasing levels of finance to central government for disbursement to the local level (de Silva 2000, Camdessus 2003, World Bank 2003, Hall 2003b). HIPC and social action funds may have a significant impact (Mechta 2004), although it is presently a concern that Poverty Reduction Strategy Papers are not giving adequate priority to water (ODI 2002). IFI 'non lending' funds may also become more accessible at the local level. Also bilateral agencies are allocating increasing amounts of their assistance to direct budget support, and reducing their sector or programme based allocations. A number of special financing instruments are presently being developed. These include the African Water Initiative and the African Development Bank Rural Water Supply and Sanitation Initiative (Camdessus 2003).

A range of local financing may also become available via community contributions, micro financing and sources of 'solidarity financing' such as the rounding up of water bills in developed countries, or public to public arrangements between local governments in the west assisting their counterparts in developing countries (Hall 2003, Hall & Lobina 2003).

Whilst the availability of more funds at the local level is anticipated, there remains considerable doubt about whether in fact these funds can be matched up to projects. The World Finance Panel argues that micro finance has generally serviced loans up to \$100, and that ODA funds have historically been matched to single community projects of up to \$10,000, but above that ceiling communities are unlikely to attract finance. The Panel reasons that whilst the majority of prospective water projects fall within a range of \$10,000 to \$100,000, these are too small for the corporate sector and too large for aid or micro loans (Camdessus 2003). The Panel suggests that increasing the 'creditworthiness' of the recipient or providing a political guarantee is the means to draw finance into this 'exposed segment'. Put another way a local government is unlikely to resolve a legitimate construction or financial management error if it was made by a partner who lacks the financial resources to rectify it. In practical terms this means that local government will need powers to allocate public funds to rectify such problems if it is to take on a broad portfolio of projects and partners and meet with success.

It will be necessary for NGO's to develop new strategies and alliances as their 'traditional' donors shift towards budget support.

It is also important to set the expectations of this financing strategy against recent trends. International aid for water and sanitation fell from \$3.5 billion in 1996–98 to \$3.1 billion a year in 1999–2001. World Bank annual water and sanitation lending averaged \$1.25 billion during 1990–98 and fell to \$1.1 billion in 1999–2001. IADB lending for water and sanitation fell from \$640 million a year during 1991–95 to \$400 million a year in 1996–2001 (Camdessus 2003). During 1999–2001, these sources of investment were therefore reduced by \$2.2 billion, which is highly significant given the estimated annual investment to achieve basic levels of coverage worldwide is in the order of \$9 billion (Briscoe 1999). Resource mobilisation for sector development therefore continues to be an elusive goal (Yepes 2002). However – on a more positive note – The United Nations has adopted a draft resolution for a new international water decade beginning in 2005 (UNGA 2004).



### 3.6 Uncertainties of the financing strategy

The international community is currently arguing with increasing force that all nations must have an adequate water policy and plan (Agenda 21 1992, Bonn 2001, DFID 2001, UNESCO 2002). A national water plan is a core obligation of 'the right to water' because it will set forth the principles upon which government will enable popular access to water as well as where and when this is to be achieved. Such a plan should incorporate legally binding right to water benchmarks which form a yardstick for monitoring of progress (UNESCO 2002).

#### 3.6.1 Pricing water

In the interests of equity, government policy regarding water pricing and cost recovery should be expressed at the national level and be applied equally to all citizens. International principles for pricing water have shifted in emphasis over the past decade as an acceptable balance is sought between affordability for the poor and pricing structures to penalise abuse of water. The Dublin statement principle 4 required water to be treated as an economic good, whilst recognising the basic right of all people to have access to "clean water and sanitation" at an affordable price (United Nations 1991). The statement however has no legal effect. More recent legally binding forms of this principle in international law do not recognise water as an economic good. Under the 'right to water' definition, water is "a limited natural resource and a public good" (UNESCO 2002) and under the European Water Framework Directive it is "not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such" (European Water Framework Directive 2000). South African water policy sees water as a public good within the doctrine of public trust and aims to provide water for basic needs free of charge (Republic of South Africa 1997, Hall *et al* 2002). The concept of a demand-responsive approach (DRA) aims to strike a compromise in stating "water should increasingly be managed as an economic as well as a social good" (World Bank BNWP 2002). What is clear is that at the level of the state, a pricing policy for water can no longer remain unresolved if sector financing is to be reformed and, whilst that is a matter for the state to decide, international law argues that the social benefits of water for the poor take priority.

Once an 'affordable' tariff has been established there are two immediate consequences for a government. Firstly it must identify a legitimate course of action to be taken against people who could but choose not to pay. Secondly it must identify actions that ensure the recurrent costs of the water supply can still be met, and this is of great significance to those involved in building, operating and maintaining water supplies. The World Water Council suggest that:

*"The most important policy recommendation we can make is for the adoption of full-cost pricing of water use and services. It will be the basis for promoting conservation, reducing waste, and mobilizing resources. But this can only be done when service providers are accountable and efficient. And it will require a new generation of subsidy programs—ones that provide subsidies to individuals, are transparent and targeted, and are the responsibility of government"* (World Water Council 2000).

There is a growing body of literature that argues the case for such financial backstopping of rural water supplies especially in light of their social benefit (de Silva 2000, Mitlin 2002, Tremolét 2002, Hall 2003a). It therefore appears that if there is to be an affordable tariff there also has to be a legitimate subsidy if full cost recovery is to be achieved. This means that governments will need an explicit policy to top up payments to private sector service providers and so fill the gap between a social pricing policy and actual project costs. Private sector service providers cannot be expected to recover adequate costs on the basis of an "affordable tariff" alone. A wide range of experiences are reported concerning the relationship between recovered and actual costs of rural water supplies, but experience of explicit subsidisation policies is very limited (Mitlin 2002, Foster 2000).

Whereas there is active resistance to cost recovery tariffs in urban and peri-urban areas (Hall 2002, Mitlin 2002) rural water supplies in general support cost recovery in principle but fail to recover enough cost in practice (Wateraid 2003). This directly affects the financial sustainability of the service provider (Yepes 2002). Getting those who are able to pay an appropriate tariff for water, to actually pay it, is therefore critical for successful private sector involvement (Republic of South Africa 1997).

### 3.6.2 *Community capital contributions*

It is widely recognised that when a community contributes towards the construction of its water supply it is likely to look after the end product (Wateraid 2003). This would suggest that ODA and public funds can be shared by more communities. But it is also clear that there is no single formula for this contribution; it may be in cash or kind, it can vary from project to project, district to district and year to year. Understandably the 'right to water' avoids identifying principles and responsibilities regarding a community's contribution to construction (UNESC 2002). Field experiences show that often the threshold for the community's contribution has been worked out between the 'donor' and the community, with or without the involvement of the local administration. It is therefore likely that as local government plays a greater role in the administration of water supply financing, the actual level of community contribution will continue to be agreed locally. A national water policy may therefore simply delegate this task and offer no more than general guidance.

When an additional party to local government and the community is involved, such as the private sector, providing the community contribution at the right time, in full and to specification (as in the case of building materials) is essential (de Silva 2000). Local government must therefore concern itself with the procedures as well as the amounts to be contributed if the private sector is to retain interest in rural water supply.

### 3.6.3 Contractual risks

Where contracting has been used as a means of regulating relationships to provide rural water supplies, a number of risks are reported which have financial consequences (World Bank & OUP 2003, de Silva 2000). Contracts can fail to specify exactly what work must be done over what period and so fail to be a basis to determine payments. Contracts can be subject to political pressure and corrupt practices, particularly in regard to procurement. De Silva's 15 country study provides guidelines for the assessment of community contracting procedures (de Silva 2000). Because locally administered finance can result in a direct contract with a service provider (eg, Yemen Social Fund for Development, India Uttar Pradesh Rural Water Supply Project) a contract with an intermediary such as the target community (eg, Malawi Social Action Fund, Zambia Social Recovery Project, Peru FONCODES, Bolivia Social Fund and RWS Project, PROSABAR) or an indirect contract through an NGO or grass roots organisation (eg, Ethiopia Social Rehabilitation and Development Fund), it is possible to match skills in contract management to the local situation. Awareness that capacity building in contract management must form an integral part of the financing strategy is widespread (World Water Council 2000, World Bank & BNWP 2002).

### 3.6.4 Managing recurrent cost and expenditures

The availability of banking facilities varies widely amongst rural communities. For construction projects a significant percentage of the total project costs may be needed over a specific short period to buy – in cash – local supplies. Where bank facilities are inadequate, maintaining cash flows and the physical security of money itself represents a financial risk for a water project. Voucher systems have been introduced as a form of promissory note in a number of sectors ( w/bank electricity in Tanzania) (de Silva 2000).

As communities often lack access to loan facilities they have limited possibilities to access cash to repair their water supply; they must either set aside funds as the project progresses or they must raise funds as and when the need arises.

Insurance schemes provide a possible approach to funding maintenance. However, there is very little literature on this subject and the usefulness of insurance is questioned. There needs to be a large pool of policies to cover the risk, it is necessary to risk so that premiums can be worked out (Brown 2001).

## 3.7 RWS financing issues in Ghana

Principally there are four sources of financing of rural water supply in Ghana:

- The Community.
- The Government/District Assemblies.
- Donor governments.
- Others such as NGOs, religious organisations and CBOs.

### 3.7.1 The community

It is a key principle of the National Community Water and Sanitation Programme (NCWSP) that the beneficiary community make a cash contribution between 5-10% of the capital cost of a project. This requirement is insisted upon by the World Bank, GTZ, KfW, and Danida. JICA, CIDA, and EU give 100% subsidy to cover capital cost (Wardrop 2001) in such cases CWSA still expects a 5% contribution from the community. Communities raise the money for their contributions from a range of sources:

- 'Kilo-kilo' - farmers voluntarily cede a kilo of their produce to support the community.
- Community levies.
- Contributions from non-resident citizens.
- Support from NGOs, CBOs and religious bodies.
- 'Harvest' at occasions such as Christmas, Easter and traditional festivals.
- Communal labour on farms.
- Support from corporate bodies operating in the communities eg, timber concessionaires, timber loggers, oil palm extraction companies and mineral extraction companies.

These various forms of community financial mobilisation account for 80% of total amount realised by communities for rural water projects (Wardrop 2001, Wateraid 2002).

Indirectly communities also contribute in kind through the provision of sand, stone and labour, especially for hand dug wells. During the first phase of the IDA financed Community Water and Sanitation Project phase 1 (CWSP-1) it was shown that 97% of communities contributed to capital cost whilst 94% contributed to O&M. The WATSAN committee members are charged with the responsibility of collecting monies in the communities (Ministry of Works and Housing, Ghana 2000).

Households or individual water users are charged a fixed water users fee in the range of normally between ¢200 – ¢2000 (US\$ 0.02-0.2) on a monthly basis. Others users adopt the 'pay as you fetch' system charging an average of ¢50 (\$0.005) per bucket. In some cases, money is raised through the sale of farm produce or livestock contributed by members in lieu of direct cash contributions (Water Aid 2002).

### 3.7.2 Government/District Assemblies

It is the policy of the Government of Ghana (GOG) to ensure long-term sustainability of sector programme by covering at least the core cost of CWSA's operations. GOG has agreed to allocate at least ₵5billion (USD 500,000) to core costs as well as honouring additional commitments and obligations with external support agencies (Government of Ghana, 2000). The government also places 2% levy on the bills of from Ghana Water Company Ltd (GWCL) consumers as a contribution towards rural water supply. Table 3.1 shows the actual government subvention received by CWSA from 2000 –20003.

**Table 3.1 Government subventions to CWSA**

Year	Amount (in billions of cedis/ US\$)
2000	2.2/ 220,000
2001	9.0/ 900,000
2002	8.3/830,000
2003	7.8/ 780,000

Source: CWSA HQ, Accra

Under some programmes, (eg, Community Water and Sanitation Project 2 (CWSP 2); DAs are expected to bear 5% of the capital cost of construction. In programmes where no DA financial contribution is expected the DA provide staff and logistical support for programme implementation under the District Assemblies Common Fund (Government of Ghana 2000). Recently HIPC funds have been allocated to rural water supply development.

### 3.7.3 Donor governments

Donor funding of most projects cover between 90% and 95% of capital cost for works for water supply facilities. Many of the donors with the exception of JICA bear all the associated costs for programme management and software interventions.

A report from an international fact finding mission on water reform in Ghana revealed that IMF/World Bank conditionalities for increased cost recovery, automatic tariff adjustment etc have negative impact on the access to affordable clean water (Water Aid 2002). The delay and at times non-payment of donor's commitments was identified as a critical setback for financing rural water supply programmes.

### 3.7.4 NGO's and others

Some NGOs provide facilities on demand without any upfront contributions from communities, others ask communities to provide local materials and labour and others ask for a token payment into a bank account (eg, WaterAid). The sum of cash required varies from ₪200,000/ USD 20 for a hand dug well to ₪1,000,000 /\$100 for a borehole. Water Aid, (August 2002) . At the national seminar on DA and community contribution to capital cost in March 2003, NGOs were given a special dispensation to accept 'in kind' payment (labour, materials etc.) in lieu of 'up-front' cash contributions (Ministry of Works and Housing, September 2000).

### 3.7.5 Proposed National Rural Water Fund

A National Rural Water Fund (NRWF) – similar to an existing facility for road construction - has been proposed in order to minimise government dependence on donors financing (Ministry of Works and Housing March 2003). Community capital cost contributions were argued to be the seed money to establish this fund, together with contributions from the private sector, corporate bodies, philanthropists and chiefs. It was also suggested that the urban water consumer levy be raised above the its current level of 2 %, and that the government consolidated fund also contribute to establishing the fund Ministry of Works and Housing (March 2003). The government has yet to establish the fund.

## 3.8 RWS financing issues in Tanzania

The Government of Tanzania continues to finance the implementation of rural water supply for communities, in the context of rural development and poverty alleviation. In the past, financing of the rural water supply has depended on government and donors as sole providers of water services, a syndrome that led to inefficient delivery of rural water supply service. That 'free for all' approach culminated in the lack of ownership of water delivery facilities by the beneficiaries and to lack of commitment to maintenance of the facilities by the users. Currently, communities are empowered to initiate, own and manage their water schemes, in order to make the interventions in the spirit of sustainability of the rural water supply interventions. The National Water Policy requires that financial support for rural water supply will be initiated and requested by communities themselves and they are required to demonstrate their ability to sustain the schemes before they gain access to financial support.

The finances for the implementation of rural water supply originate from two distinct sources:

- The intervention owners, the communities themselves. They provide their investment financing through direct cash contributions and indirectly through active participation in planning, implementation and management. The availability of cash contributions towards water supply interventions and extent of participation in the planning for community water intervention is a demonstration of the community ability to sustain the schemes before they gain access to financial support. Normally communities are required to pay a portion of the capital costs, both in cash and in kind, whether for new schemes, rehabilitation, or systems expansion. Where there is demand, and the water supply is sufficient available water permits and house connections are also allowed, but those in need of such facility are required to pay for the full costs related to the higher service level.

- The Government (Central and Local) mobilises and provides financial support to complement community efforts from both their own sources and external sources, eg, donors, NGOs, etc. Since the availability of support from the government is led by the availability of community initiatives towards the interventions, community proposals for easy and cheap interventions will access the government support much easier and earlier than community proposals in arid and semi arid areas where water sources are limited and expensive to develop. Thus without foregoing conditions on community willingness and ability to contribute towards their interventions, the national water policy clearly states that communities in arid and semi-arid areas will be prioritised in investment.

To date, water supply development and delivery has been dominated by the public sector. However, the government strongly encourages private sector involvement in rural water supply development and management in order to improve efficiency and effectiveness and to enhance development and sustainability of service delivery. However, the dormancy of the Small and Medium Scale Enterprises (SME) sector in Tanzania has not been limited to the water sector but in all other sectors, and the reason for this has been identified as limited access to finance due to the following factors:

- The sector is perceived as having a high risk attached to it.
- The inability of the SME operators to fulfil the collateral requirements.
- Most banks do not operate an SME financing window.
- Some of the banks operate in limited geographical areas.
- Inexperience of bank staff in issues related to micro finance.
- Lack of a guarantee scheme to back up banks which finance SMEs.
- High costs of screening and administering small loans spread over big areas and inability of borrowers to prepare and present applications that meet bank's requirements.

The government of Tanzania is addressing to these inhibiting factors, through reforms that have resulted largely in liberalisation of the financial sector. A number of banks have been established including the Micro Finance Bank. Financial rates have been liberalised and a stock exchange market has been established. In spite of these, the SME sector is facing a major constraint in accessing finance. This limits their capacity to survive, increase capacity, upgrade technologies, expand their markets, improve management, raise productivity and eventually increase incomes.

In order to facilitate access finance by SMEs, the Government of Tanzania intends to carry out further financial reforms aimed at further liberalisation of the financial sector and the creation of financial intermediaries to cater for SMEs. This will be achieved through the following strategies:

- Promotion of lessons and good practices from traditional financing mechanisms into suitable financial products for financing SMEs.
- Facilitation of SME windows in financial institutions.
- Promotion of innovative financial products for SMEs such as hire purchase schemes, leasing, inventory financing, venture capital SMEs, saving and credit schemes.
- Promotion to improve access of SMEs to bank financing through simplification of procedures.
- Mobilisation of resources and promotion of development of new financial institutions for financing SMEs.

With all good intentions of the policies, it will be some time before the desired environment for efficient financing of the private sector can be in place as there are other aggravating problems facing the SMEs. According to Nchimbi (2003) these include; inefficient tax system which is characterised by multiplicity of taxes and high rates of tax, and the depreciating Tanzanian shilling which makes it difficult for most SMEs to import foreign inputs because of their reduced purchasing power.

According to the National Water Policy (Ministry of Water and Livestock Development, July 2002) there is a huge potential for participation of the private sector in RWS and one of the strategies that will be used to ensure the enhanced participation of the private sector is *'to give assistance to the private sector and district councils to strengthen their capacities'*.

However, the Ministry of Water and Livestock Development's 'promise' above can only happen after major changes in the planning and budgeting process have been effected (Personal communication, Dominick de Waal). At present, Ministry of Water and Livestock Development's plans are dependent on district reports and there have been no efforts to link the plans with community generated plans. In order to rectify that anomaly, the ministry needs to facilitate local authorities to develop local plans based on a consolidated Community Opportunities and Obstacles Development analysis. Without this, the promise by the Ministry of Water will take a long time to take shape as the Ministry will be missing the grass roots inputs of the poor and the vulnerable in the plans. It is the pro-poor planning as referred to previously that can provide the identification of the nature of assistance/support required and to finally to devise a mechanism for it to be specific and effective to the Small and Medium Scale Enterprises sector involved and to be involved in RWS.



### 3.9 RWS financing issues in Zambia

Central government through the Ministry of Local Government and Housing has been the main source of finance for the water sector in Zambia. The Ministry of Finance and National Planning releases funds to the local authorities through the line ministries and in turn through the provincial administration.

In addition to the central government funding the local authorities, the Local Government Act gives local authorities power to raise revenue locally within their jurisdiction. The local authorities can raise revenue locally through the following: rates, levies, licences, fees and charges, borrowing, bonds and stocks.

Current sources of finance for the sector are:

- Central government (in the form of grants – RDCs & Capital Investment).
- External Bilateral and Multilateral Donors (project support).
- Local statutory sources (levies, licenses etc).
- NGOs and CBOs (for operation and maintenance).
- Community Contributions (minor operation and maintenance works).

The current driving factors for financing of the rural water supply and sanitation sector are:

- The National Water Policy and attainment of the national goal expressed therein.
- National PRSP Objectives.
- Transitional National Development Plan.
- MLGH/DISS Rural Water Unit annual plan.
- The need to drive decentralisation policy
- The Millennium Development Goals.

In future it is envisaged that most of the financing for the water sector will come from the following sources:

- For the private sector – Micro Financing Institutions, CBOs,
- Government grants and subsidies.
- Donor credit and social funds.

### 3.10 Summary and key needs

The emerging financing strategy to develop the rural water sector envisages a greater role for local government in administering local finances and a greater role for local private sector, civil society and communities in developing and managing water supplies. The scale of reform necessary to make the approach workable cuts across national, local governmental and community roles and responsibilities. It is unlikely that these reforms can be achieved within a single programme of activity and it is to be expected that some actions will proceed in advance of the ideal overall framework becoming effective. A variety of financial bottlenecks are likely to become priorities if funds are to be put to use at the project level.

Internationally there remains much to be done to attract financing for rural water. Nationally, governments must have an explicit water pricing policy and must give priority to the allocation of finances for rural water so that funds reach local government. Of particular concern is the need for finance mechanisms to subsidise legitimate short falls in full cost recovery.

Local government must be empowered to administer their budgets effectively and must be able to deliver financing relative to construction schedules. In particular they will need powers to mobilise finance to manage the risks incurred as they engage inexperienced communities and the local private sector which lack their own resources to rectify problems. Their powers to intervene and the remedies they can provide in relation to financial disputes must be made clear. Local government must also develop workable approaches to community capital contributions with their partners.

Civil society, the private sector and communities must be able to manage the contracts they enter into, and show good practices in procurement, cash flow management and accountability.

Communities benefiting from water supplies remain responsible for the payment of water tariffs and the mobilisation of finance for repairs. This income stream must be robust if the private sector is to be attracted.

## **4 LEGAL AND ADMINISTRATIVE ASPECTS OF RURAL WATER SUPPLY SERVICES**

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### **4.1 Introduction**

This section of the literature review explores the ideas behind calls for water law reform, and seeks to orient research to addressing key issues emerging at the community level. Whilst there is evident need for procedural rules, such as those for contracting SME's, it is recognised that for such rules to become operational the parties will seek credibility, empowerment and support from a broader legal environment. Consequently a broad approach is adopted to provide a holistic view which not only consists of sets of rules, but also an array of mechanisms to enable legal reform to be focused, appropriate and operational in the African rural setting.

The current literature leaves the reader with little doubt that law, or more usually a new legal framework is seen as the means to realise a daunting array of expectations in the field of rural water development. Whilst it can be said that effective law has been a missing ingredient in the sector for too long, but it is important to be clear about what is expected from legal reform. But there is very little current documented experience of the process and effects of reforming the legal framework for water in rural Africa. This review draws on published expectations of legal reforms, selected sources of law and the limited documented experience in order to identify where improved understanding is most likely to inform the practical process of legal reform.

### **4.2 Why do we need a new legal framework for water in rural Africa?**

#### *4.2.1 Customary law*

Water law, it is argued, "should be appropriate to the spirit and circumstances of the community" it seeks to serve (IWES 1983). It is a very difficult task to assess the contribution and current role of traditional customary water law in Africa because it is based on numerous culturally specific oral traditions and is not widely documented or understood (FAO 1996). In general, however, such customary laws recognise an individual's entitlement to water – free of charge – as a result of that individual's identity with a particular community (Howsam 1999). Access is generally unrestricted and surface waters are communal property. Customary laws may also prohibit certain activities and impose fines in the interests of the community.

Customary law continues to play a varied and sometimes very influential role, in particular by providing rules for access and use formulated around the community as the water management unit (Phiri *in* Howsam 1999). Assessing the strengths and weaknesses of these laws against modern day demands is important, but may only be possible on a culturally specific basis. Customary law does, however, feature in the development of water law at the level of water users groups and in local by laws (van Miert & Binamungu 2001). But it seems unlikely that customary law can be codified, written down and incorporated significantly at the national level. Certain aspects of customary water law are also argued to run counter to present day concerns regarding gender equality, poverty reduction and economic necessity (Mensah *in* Howsam 1999). So whilst it would be very difficult to argue why customary law cannot meet the demands of modern water law, it remains very necessary to try to understand and incorporate it where community level management stands to benefit (Obitre-Gama *in* Howsam 1999). It is therefore not the desire to overhaul and extend systems of customary law that is driving the reform of water law, but more an expressed need to extend the scope and effect of national legislation so that customary law is supported at local level.

#### 4.2.2 National Law

In a five country study in 1999 (Ghana, Mozambique, Tanzania, Uganda and Zambia) it was reported that all five countries had revised their water legislation since 1991 and most had done so since 1995 (Howsam 1999). In general the legislation appears in two separate acts, one addresses supply and the other water management.

Water management legislation usually requires people to have an abstraction permit or licence for a specified source and purpose, except for small volumes such as communal rural supplies. The licensing of abstraction is a requirement when water is the property of the state, and the state then manages water for the public good.

Water supply legislation confers powers and imposes obligations upon water supply providers. The authors suggest that this implies a member of the public has an entitlement to be supplied with water, albeit a very difficult entitlement to assert.

The authors conclude that there is a general perception that the implementation and enforcement of this new legislation has been inadequate. It can also be observed that in non of these five countries was there a separate act addressing the special demands of the rural population, who in fact represent the bulk of the un-served population. However, in some countries the responsibility to supply water in rural areas was established in the laws empowering devolved local government.

Reports from Cameroon (2001), Kenya (1995) and Uganda (undated) (*in* Schouten & Moriarty 2003) all raise the concern that, following legal reforms, the legal status of community water committees still remained uncertain.

The most widely documented example of national water law reform in Africa is that of South Africa (Republic of South Africa 1997). A growing body of literature is reporting upon its impact (Allen 2003).

It is hard to say, on the basis of the published literature, whether National water law fails to realise its full scope and effect because the procedures used to develop them are at fault, or whether national legislature simply cannot keep up with the constant changes that influence the sector. Whilst there are a number of legal impact assessment techniques available (Kirkpatrick & Parker 2003), there is little culture as yet of putting them to use in the water sector. Consequently our understanding of the role of national water law is not growing relative to the changes we are introducing. It goes without saying that sufficient political will is not only required to achieve adequate legislation, but also to subsequently enforce it (UNESCO 2001).

In the context of the present research, however, some observations can be made. Firstly, because overhauling national water law is a slow, costly and difficult task, we may have to accept that it will not address all of the issues we expect it to when the sector is prone to frequent 'policy' shifts. We should perhaps be looking at how amendments can be made more efficiently and how delegated laws and codes of practice arising from local government, by laws and communities can respond more effectively to omissions at the appropriate level. Secondly, the adoption of new legislation does not signal the end of the process of informing law makers. Neither does it mean that the relationships arising from addressing legal issues cannot continue and broaden their role. Being able to tap into legal expertise and provide remedies in the event of short comings of the law itself would help the law to adapt to real circumstances. This observation may in some way explain what is meant when we see the term legal framework in development literature. It is not only a framework made up of various laws, but it is also a resource from which an adaptive legal response can emerge.

As rural water policy changes, there is always the possibility that it will conflict with the policy for another sector. The same is true of law and significant effort is needed to effectively harmonise new legislation. Understandably not all conflicts of law can be predicted and resolved in advance. As yet, there is very little written about the conflict of laws arising from new water legislation in the rural domain. Conflict may however be anticipated as the sector seeks to engage new actors, particularly the private sector. Administrative law which determines the role and responsibilities of local government and the law relating to operating business must also be in agreement with the role of the private sector which water law seeks to enable.

#### 4.2.3 International Law

International law has an increasing role and influence in the revision of national law. But whilst a state is generally obliged to bring its national law in line with binding treaties and conventions, what it may express in declarations does not have any legal effect. In the area of water law the gap between treaty and declaration is particularly great – compare, for example, Chapter 18 of Agenda 21, with a range of legal expressions concerning the right to water (Agenda 21 1992, Scanlon *et al* 2003). Declarations can lead nations to agreement about the law and therefore help to explain the purpose behind law reform.

The most relevant sources of binding international water law concerning rural communities are found in human rights law. In 2002 a definition of the (UNESCO 2002) was adopted under the International Covenant on Economic Social and Cultural Rights [ICESCR] (UNESCO 1966). The 144 States party to the covenant (which include Ghana, Tanzania and Zambia) have a legal obligation to comply with its provisions. Whilst compliance with the ICESCR in Africa remains poor (Chirwa 2002), the importance of the right to water obligations it defines remain fundamental. The 'right to water' establishes nine immediate obligations for the state (Table 4.1).

**Table 4.1 Summary of immediate core obligations of the right to water**

<b>At the national level (GC 15 Para 37 (f) (g) &amp; (h))</b>	
i.	To adopt and implement a national water strategy and plan of action addressing the whole population...it should include right to water indicators and benchmarks
ii.	To monitor the extent of the realisation, or the non-realisation, of the right to water.
iii.	To adopt relatively low-cost, targeted water programmes to protect vulnerable and marginalised groups.
<b>At the community level (GC 15 Para 37 (b) (c) (e))</b>	
iv.	To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalised groups.
v.	To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household.
vi.	To ensure equitable distribution of all available water facilities and services.
<b>At the individual level (GC 15 Para 37 (a) (d) (i))</b>	
vii.	To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease.
viii.	To ensure personal security is not threatened when having to physically access water.
ix.	To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation.

Source: UNESCO 2002

It is not possible to examine in any depth the nature of these obligations in a literature review, but information to support their implementation is becoming available (WHO *et al* 2003, Wateraid *et al* 2004, COHRE 2004, Woodhouse 2004a & b), but there is as yet no documentation concerning how nations are responding. Even so, the importance to rural communities and the actions a state must take are clearly seen. The closer reading of the whole definition also provides an understanding of the legal relationship between the state and the community in realising the right to water. It is clear that there is no rights based legal barrier to private sector involvement in rural water supply, except to say that the state is required to intervene when any party impedes an individual's right to water. The 'right to water' also offers a true yardstick against which to measure progress in a rights based approach to water development.

Other sources of international water law, whilst primarily concerned with shared international waters (Wouters 1999), increasingly create state obligations for public participation and in particular public access to information (Woodhouse 2003).

We can be certain about those areas where international law seeks to influence water law in relation to rural communities, even though it is too early to know if states will comply. International declarations and statements however paint a different picture. In general these statements take the form of a prescription that sets out what the law should achieve (Table 4.2).

**Table 4.2 Summary of international statements concerning rural water law reform in developing countries**

Source	Guidance	Focus
UNESC 2001	...a stable and coherent regulatory environment is required	Regulation
World Bank 2003	Clarification of public's role	Define public's role
	Private investment and management framework	Investment framework
	Water rights	Legal entitlement
Minister's declaration, WWF Kyoto	Ensuring the necessary public control and legal frameworks to protect the public interests, with a particular emphasis on protecting the interests of the poor.	Governance, Equity
WWC	No specific issues mentioned	
WSSD implementation plan	Effective legal frameworks for water pollution prevention, industrial and domestic wastewater treatment, by the effects of groundwater contamination, national level monitoring systems.	Regulation
	Employ a full range of policy instruments, including regulation, monitoring, voluntary measures, market and information-based tools, land-use management and cost recovery of water services.	Regulation
	Adopt policies and implement laws that guarantee ...water use rights... and provide technical and financial assistance to developing countries.	Entitlement
	In conformity with human rights... Strengthen the capacity of health-care systems to ... reduce environmental health threats.	Human rights
African Ministers, Bonn	Strengthening policy, legislative and institutional reforms, including decentralisation and empowerment of local community for integrated water resources management.	Governance, Policy, Planning

**Table 4.2 Summary of international statements concerning rural water law reform in developing countries (continued 1)**

<b>Source</b>	<b>Guidance</b>	<b>Focus</b>
Camdessus 2003	Effective laws on the central-local fiscal relationship...to enhance the financeability of water infrastructure projects (Partnerships UK).	Investment framework
	Corporate laws permitting the structure of corporate vehicles; the concept of freedom of contract for a project and the enforceability of commercial contracts; adequate investment protection laws; clear authority for the public sector to enter in public-private partnerships; lenders able to obtain effective security; supportive banking laws; sector specific legislation.	Enabling business Transparency
	Poor governance arising from inadequate legal framework.	Governance
	...to define and implement a water policy, set a regulatory framework and create a basis for commissioning and controlling executing work, whether performed by private or public agents...	Policy & Planning
	best practice and model clauses in the legal agreements for private participation, with particular reference to the water sector.	Enabling business, Regulation
	The high political profile of water should be used to create more transparency for its operations. Public opinion, user associations and NGOs should be encouraged to monitor and publicise the activities of water organisations and expose corrupt practices.	Governance, Regulation
	Private and public companies engaged in the water sector are urged to cooperate with public clients and other parties to develop methods for promoting ethical behaviour. Private participation contracts should be fully transparent.	Regulation Ethical practice
	Governments and water authorities should recognise the present and potential role of small-scale water service providers (SSWSPs) and other parts of the local private sector, and provide a legal framework to encourage greater long-term investments by them.	Enabling business, Investment framework



**Table 4.2 Summary of international statements concerning rural water law reform in developing countries (continued 2)**

Source	Guidance	Focus
World Bank RWSS Toolkit	Legal basis for water use rights, customary entitlements, standards for water quality, watershed management and protection.	Legal entitlement
	How is law applied	Impact assessment
	An appropriate legal framework of ownership and management. This should include, but not be limited to, an autonomous, community-elected water users association to operate the service, set tariffs and manage funds, and ensure continuity in the provision of service.	Ownership
	Legal recognition of water boards, water user committees, or other entities.	Legal personality

When the statements from the literature that seek to guide water reform are seen against the documented understanding of how and what water law achieves, we can begin to learn something of the nature of the gap separating what we expect from what we understand from past experience.

The conclusions that can be drawn are very general but are a useful orientation for future research. Most authors agree that there is a need to improve national capacity to reform law, but it is unclear whether this need has been linked to the levels at which reform is most likely to achieve public benefits. Whilst new national statutes provide the fundamental basis to enable new law to be developed, statutory law struggles to keep up with issues emerging at the local level. Some authors suggest that the cost of statutory legislation far outweighs its benefit to the public (Economist 2004). There is presently little knowledge in the water sector of whether it is better to invest in central government to achieve statutory provisions or whether it is better to invest in central governments efforts to enable the delegation of priority local legislation to the local level. It has been shown that local by laws can be enacted relatively efficiently and quickly to provide appropriate local remedies when policy goals are changing (van Miert and Binamungu 2001). It would therefore be useful to understand the relative costs and benefits of both approaches and this calls for a greater degree of monitoring of the reform process than has currently taken place. Identifying those issues which are of high local priority and potential impact is an important first stage in designing a project to examine the relative public benefits of the reform process. For the present, however, it may only be reasonable to monitor the success of central government reforms in terms of governance rather than social indicators.

A second general conclusion concerns 'the right to water'. The law and the literature clearly establish a legal basis for developing rural water supplies in the interests of social and economic rights. There is provision in international law to develop and monitor rural water supply under a binding - rights based - legal framework. And traditional customary law, which can harness community involvement may conceivably become part of this framework, although it is possibly inadequate on some specific issues. There is as yet no attempt to relate this recent legal development to a water law reform process. The 'right to water' concerns the crucial requirements of water supplies for rural communities and provides definition of both the substance and procedure needed in a legal framework. It would represent a significant achievement if this research project could support state efforts to operationalise the 'right to water' by examining the role of the community, private sector and local government in realising its objectives. This is particularly important at a time when government is progressively withdrawing from being a service provider, and the public is likely to be affected during the transition period (UNESCO 2001).

There are also a range of legal issues which reform seeks to address that remain poorly understood in the local context. In particular, local contracting, water rights (that is the legal entitlement to water and ownership as distinct from a human right to water) and the notion of water as a public or economic good. These aspects are discussed in the following sections.

#### **4.3 Administrative (contractual) aspects**

There is significant agreement in the literature that improved rural water supply and management services are to be provided through private sector participation. It is argued that such an approach can have a pro-poor focus, can serve different types of communities and can be monitored by a system of contracting with local government. (World Bank & OUP 2003). The contract itself then becomes an agreement on measurable products and the procedures and schedules to achieve them.

Da Silva, in a 14 country study of community contracting, focuses on a wide range of procedures required in contracting and suggests guidelines for their participatory assessment (de Silva 2000). These procedures concern standards of work, payment schedules, warranties and penalties, dispute settlement, audits and transparent procurement. The study also highlights indirectly that a range of substantive legal issues must also be resolved if contracts are to be workable. These concern the powers of local government to manage, arbitrate and regulate contracts. They also concern the scope of legal recognition of the community user groups such that they are able obtain redress from the authorities. Procedural rules of contract are unlikely to have any legal effect unless the substantive issues are first resolved. So for example there is no legal power for a local authority to respond to a contract made between an NGO and a local builder, unless the government authorises it to do so.

Therefore whilst the procedural requirements of a contract are common sense and easily modified, it is currently very important to understand the scope of the substantive law that gives a local contract its legal effect. The present research project could therefore address where the powers, entitlements and legal recognition of the contracting parties have to be established to enable the contract to be fully support by the law.

Attention must also be paid to understanding whether it is realistic to expect a contract to regulate the non-quantifiable aspects of water supply and management. Such aspects may include ethical practice and how to make good serious errors in construction or financing. Contracts may also be seen as a vehicle to achieve 'right to water' objectives, O&M standards as well as value for money.

#### 4.4 Water rights

A water right (as distinct from a human right to water) is a legal entitlement, giving the bearer the right to use or enjoy a water source (Scott & Coustalin 1995). In many jurisdictions it is related to land tenure. A water right may also specify a volume of water or a flow rate. Whilst many rural water users groups in Africa may enjoy some form of legal registration they may not have a recognised water right. A water right would provide a water users group with a legal personality such that it could defend its right to use water and prevent others from impairing their entitlement in a court of law (Van Miert and Binamungu 2001). This has important benefits when a group shares the development or use of a source with others. Whilst the trading of water rights may not be practised, a water right can also represent a form of collateral or the means to obtain a loan. A water right therefore represents both a legal and financial security for a water users group.

Currently there are many attempts to explore the role of water rights beyond their legal origins as an entitlement and to use them as tool to allocate water based upon its economic value (World Bank 2003b). It is also suggested that water rights could be seen in relation to protecting the rights of the community of users of a river basin or hydrological system, rather than being identified with points of abstraction or point sources (Scott and Coustalin 1995).

#### 4.5 Water as a public good

It has been noted already (Section 3.6.1) that the law tends towards a view of water as a public good, whilst the literature strives to balance that position with the need for cost recovery. Point sources in poor rural areas represent a critical challenge to this balance between water as a social and an economic good. Hall suggests that in some cases the “doctrine of full cost recovery is simply not viable” (Hall *et al* 2002). Where a legitimate basis for the non-payment of the full cost of water is recognised, this would call for a legal response to empower the relevant authorities to allocate finance to meet the full cost. Without such a mechanism the income stream to pay an SME is uncertain.

#### 4.6 Legal and administrative issues in Ghana

##### 4.6.1 Introduction

Statutory provisions have empowered three institutions with responsibilities for the water sector. The Ministry of Works and Housing (MWH) is concerned with the provision and sustainability of water and its related components such as sanitation. The Water Resources Commission (WRC) is responsible for the management of all water resources (Government of Ghana Act 522 1996). The WRC is advised by a board comprised of members from a range of sectors. The responsibilities of the WRC include:

- Regulate and manage the utilisation of water resources, and for the co-ordination of any policy in relation to them.
- Propose comprehensive plans for the utilisation, conservation, development and improvement of water sources.
- Grant water rights.
- Require water user agencies to undertake scientific investigations/experiments into water resources in Ghana.

The Community Water and Sanitation Agency (CWSA) is tasked with ensuring the provision of potable water to rural communities and small towns (Government of Ghana Act 564, 1998). In addition its responsibilities include:

- Encourage private sector participation in the provision of safe water supply and related sanitation services to rural communities and small towns.
- Assist and co-ordinate with NGO's to develop rural community and small towns water supply and sanitation.
- Charge reasonable fees for services provided.

A board is established to provide policy direction for the Agency. CWSA signs an Annual Performance Contract with the State Enterprises Commission (SEC) on the outputs/deliverables. As a subvented organisation it has the power to sue and be sued. CWSA is subject to formal annual and mid year reviews of performance and progress.

#### *4.6.2 District Assemblies (DAs)*

Within the context of Ghana's decentralisation programme and the institutional framework of the Local Government Act (Act 462) of 1993, District Assemblies have been entrusted with the responsibility of facilitating development in their jurisdiction. DAs are therefore actively involved in the implementation of water and sanitation projects in the country (CWSA, 2000) and for example are expected to play a pivotal role in the implementation of the IDA (World Bank) financed Community Water and Sanitation Project 2 (CWSP2) in four regions in the country. In this respect, the DAs initiate and award contracts for activities related to community mobilisation/training, borehole drilling/hand pump installation, civil works etc. within the limits set by the District Tender Board (CWSA, By Laws ND). Also during the implementation of the first phase of the DANIDA financed Community Water and Sanitation Programme (1999-2003), DAs were entrusted with the responsibility for initiating and awarding contracts for the construction of hand-dug wells. Under the second phase of the DANIDA Sector Programme Support (SPS II) which started in January 2004, DAs would be responsible for the award of contracts for community mobilisation, borehole drilling, construction of hand-dug wells and hand pump installation (Danida/Government of Ghana 2003).

#### *4.6.3 Community Water and Sanitation (WATSAN) committees*

Community Water and Sanitation (WATSAN) committees have been established in each beneficiary community to manage the facilities provided. These committees do not have any legal mandate, but are recognised by the DAs and its sub-structures (i.e. Town/Area/ Zonal Councils and Unit Committees) as wells as the CWSA.

#### *4.6.4 Unit Committees*

Unit committees have been established in each District by Legislative Instrument (LI) 1589 as the lowest tier of government. Even though members do not deal directly with issues related to water supply in the community, they work in harmony with the WATSAN committee members in managing water and sanitation facilities.

#### 4.6.5 Regulation of use of water resources

The Water Resources Commission Act invests the property and the control of all water resources in the President on behalf of and in trust for the people of Ghana. The Act further prohibits the use of water for any purpose except domestic without authorisation from the Commission. A person can only obtain the right of water after going through a laid down procedure by the Commission (Government of Ghana, Water Resources Commission Act 1996).

#### 4.7 Legal and administrative issues in Tanzania

Until a few years ago, the Ministry responsible for water, with support from External Support Agencies ESAs and (NGOs), has been planning and constructing rural water supply schemes, with little participation of the beneficiary communities. The government has been the owner and operator of most of these schemes. This led to a lack of commitment by the beneficiaries to safeguard the facilities. Issues of ownership and management of water schemes are central in the sustainability of rural water supply schemes, hence most schemes are at present not being properly operated, maintained and managed because the beneficiaries are not the legal owners of the facilities. Efforts are now being made to ensure existing and new water schemes are legally owned by appropriate water user entities and a regulatory framework put in place to ensure that all actors adhere to performance standards by:

- Reviewing relevant acts and regulations under which rural water user entities can be legally registered.
- Strengthening and instituting regulations pertaining to private sector participation in water supply and sanitation in rural areas.
- Ensuring that information on the regulations pertaining to rural water supply and sanitation services is disseminated to all stakeholders.

On private sector participation development on a wider scope, according to (Nchimbi, 2003), inefficiency, bureaucracy and regulatory environment are highlighted as a major problem for the development of the SME sector in Tanzania. The regulatory environment is characterised by a lot of controls that are considered to have forced the majority of SMEs to operate in the informal sector. The procedures for registration and business licensing, for example, are very expensive due to unnecessary bureaucracy involving filling in of a massive number of forms. Also, necessary information regarding registration and licensing requirements is not easily available. This position is confirmed by the admission in the Ministry of Industry and Trade, small and medium enterprise development policy that despite various interventions aimed at improving the business environment in Tanzania, the legal and regulatory framework is bureaucratic, costly and centralised. These characteristics adversely affect all sizes of businesses. SMEs are further constrained relative to larger businesses due to the disproportionately heavy costs of compliance arising from their size. As a result most informal enterprise has failed to formalise and micro enterprise have been unable to grow and graduate into small and medium enterprises.

The tax regime in Tanzania is also unfavourable for SMEs development. Taxes are many, rather high and collected by various authorities including Tanzania Revenue Authority (TRA) and the local government authorities. Furthermore, entrepreneurs are often ignorant of tax matters and the cost of complying with tax regulations is high. Whereas taxation of business is necessary for national economic development, the present tax regime imposes a major burden on SMEs.

The government policy for small and medium enterprise development (Ministry of Industry and trade, April 2003), is to enhance implementation of programmes aimed at simplification and rationalisation of procedures and regulations so as to encourage compliance and minimise transaction costs. Strategies aimed at improving the legal and regulatory framework include:

- Simplifying business registration and licensing procedure.
- Simplifying the tax system and introduction of tax incentives to facilitate SMEs.
- Reviewing Government procurement procedures to facilitate participation by SMEs.
- Establishing a window within the commercial court to facilitate participation by SMEs.
- Training and sensitising SMEs on intellectual property rights.

Appropriate measures need to be taken to harmonise the implementation of the two sector policies and to deal with legal matters like contracting arrangements at community level, so as to facilitate legal matters to both the community and SMEs.

## **4.8 Legal and administrative issues in Zambia**

### *4.8.1 Historical perspective*

Prior to the 1990's the National Commission for Development Planning (NCDP) was responsible for the overall development planning, determination of intersectoral investment priorities, setting of overall objectives, donor co-ordination and monitoring of executing agencies performance. Responsibility for design, construction, operation and maintenance of township water supply and rural water supplies, water resource development and management were vested in the Ministry of Energy and Water Development at the Department of Water Affairs. The Ministry of Local Government and Housing was responsible for urban water supply in Lusaka, provincial headquarters and the larger towns along the railway lines. The Ministry of Works and Supply was responsible for design and construction of water supply and sanitation in government institutions (ministries, schools, army camps etc).

The Ministry of Health was charged with rural sanitation and hygiene education and the establishment and monitoring of drinking water standards. The Ministry of Community and Social Welfare was responsible for assisting rural communities to organise themselves for implementation, operation and maintenance of water and sanitation facilities. The Ministry of Agriculture, Food and Fisheries had responsibilities in irrigation and provision of water supply to agriculture camps.

This multiplicity of organisations responsible for different parts of the water supply sector combined with a lack of clear allocation of responsibilities aggravated by limited national economic growth created serious problems for the water sector. As a result the sector was for a long time in a state of disarray, with the sector experiencing persistent underfunding, understaffing and consistent failure to meet its service obligations.

#### 4.8.2 Water sector reform

In the early 1990's the Zambian government embarked on public sector reforms which included changes in responsibilities and roles of institutions in the water sector. A new National Water Policy was developed and adopted in 1994 (GRZ 1994). This paved the way for the enactment of the Water Supply and Sanitation Act no. 28 of 1997. The National Water Policy set out seven sector principles as follows:

- Separation of water resource management functions from water supply and sanitation.
- Separation of regulatory and executive functions within the water supply and sanitation sub-sector.
- Devolution of authority to local authorities and private enterprise.
- Achievement of cost recovery for water supply and sanitation services capital, recovery, operation and maintenance through user charges in the long run.
- Human resource development leading to more effective institutions.
- Technology appropriate to local conditions.
- Increased government priority and budget allocations for the sector.

The water sector reforms have resulted in changes in the functions and responsibilities of the different stakeholders in as far as water management and supply is concerned. The Water and Sanitation Act 1997 obliges the local authority to provide water and sanitation services:

*“Notwithstanding any other law to the contrary and subject to other provisions of this Act, a local authority shall provide water supply and sanitation services to the area falling under its jurisdiction, except in any area where a person provides such services solely for that persons benefit or a utility or a service provider is providing such services”.*

Sub section (2) of this particular piece of legislation goes on to say:

*“Notwithstanding subsection (1) and any other law to the contrary and subject to the other provisions of this act, where a local authority is unable for whatever reasons to supply water and sanitation services to a local authority within its jurisdiction and no such services are being provided by any service provider, the local authority may contract any person or other service provider to do so.”*

#### 4.8.3 Regulation

The Water and Sanitation Act also establishes the National Water Supply and Sanitation Council (NWASCO) as the regulator of providers of WSS services throughout the country. NWASCO, which became operational in 2001, is responsible for developing policies, setting standards and guidelines, licensing water and sanitation utilities and monitoring their performance, and taking any necessary actions to ensure efficient and sustainable provision of WSS services. According to the Water Supply and Sanitation Act:

*“...Subject to the provision of the act, the function of the council shall be to do all such things as are necessary to regulate the provision of water and sanitation services...”*

#### 4.8.4 Water as an economic good vs social good

Zambia's policy is in line with International Covenant on Economic Social and Cultural Rights (UNESCO 1966).

### 4.9 Summary and key needs

This research project likely to make a unique contribution in the following three areas:

- Identifying priority legal issues which can be addressed at the local level and are likely to have a large impact and public benefit for a relatively small cost.
- Identify those aspects in which the engagement of the local private sector is likely to operationalise and achieve the objectives of ‘the right to water’.
- Identify what is needed to enable local level contracts to be fully recognised and supported by the law.

All three areas are of considerable importance to the three study countries.



## 5 INSTITUTIONAL AND REGULATORY ASPECTS OF RURAL WATER SUPPLY SERVICE PROVISION

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### 5.1 Introduction

The review of international literature presented in Sections 5.2 to 5.4 below aims to present the current understanding of institutional dimensions of rural water development in relation to the role of the SME. It begins by considering tools used to analyse the role of sector institutions, it places the common themes from these methods in to the contemporary rural context, and identifies critical areas of concern.

### 5.2 How can we analyse institutional roles in the context of rural water supply?

#### 5.2.1 *The governance approach: focusing on best practice*

In contributing to the third World Water Forum (Kyoto 2003), the Global Water Partnership sought a wide range of views regarding water governance, offering its definition as:

*“Water governance determines the roles and responsibilities of the different interests – public, civil and private - in water resource management and development... It translates into political systems, laws, regulations, institutions, financial mechanisms and civil society development and consumer rights – essentially the rules of the game. Usually improving governance means reform” (GWP 2003).*

The notion of water governance therefore attempts to unite concern for public interest with the role and approach of sector stakeholders. Consequently it seeks to include the private sector. In suggesting that water governance is a shared responsibility, distributed across many levels of government, the report promotes the “subsidiarity principle” of managing water at the lowest appropriate level. This view ought therefore to provide an entry for SME’s which is distinct from the idea that the private sector is synonymous with the privatisation of state owned enterprises. It ought to be able to recognised that community water supplies are community owned (Boubakri *et al* 2002).

An online toolbox produced by GWP provides guidance for IWRM and specifically addresses governance and organisational frameworks (GWP/IHE 2004). The toolbox identifies a range of functions that an organisational framework may need to perform and suggests that the composition of the institutions who should perform them is decided by national experience and needs. It stresses the need for participatory processes and a high degree of transparency and accountability. It would appear that a key characteristic of adopting a governance approach to analysing a sector institutional framework would be its focus on arriving at socially beneficial outputs by following ‘best practice’. This suggests a method less concerned with rigid structures and more sensitive to ensuring that roles and responsibilities are productive in the public interest.

The tool box provides guidance on private sector and service provider issues, but these are addressed at the national rather than community level. Consequently, it identifies with the large scale private sector and sees community level stakeholders as service providers, but notes that “less formal service suppliers may lie outside the legal framework but can be essential for meeting local needs”. Studies (Ayogu & Fosu 2002) note that even after the privatisation of over 2,700 state owned organisations in Africa there has been very little analysis of the relationship between privatisation and corporate governance. These studies identify concerns that the public may be paying the cost of privatisations, from which the private investors reap the benefits (Ayogu & Fosu 2002). It has been suggested that if the poor are to benefit from institutional reforms then capacity building, accountability and stakeholder participation must form part of that process (Wateraid & Tearfund 2003).

### *5.2.2 The organisational approach: focusing on working relationships*

Saleth and Dinar (2003a) developed a view of the institutional aspects of a water sector in terms of three overall components: water law, water policy and water administration. Expert respondents to a questionnaire saw “the scope for private sector participation” as a factor in the water law component which influenced successful sector performance. The experts did not however attach similar importance to the role of “private sector participation” in the water policy component. No views were sought on the private sector role under the water administration component. These findings as well as the experimental bias may suggest that the private sector is seen more as a service provider which the sector should accommodate through legal provision than as a stakeholder in an institutional framework.

In a second multi-country study (Saleth and Dinar 2003b) a range of qualitative issues were identified with respect to institutional response and sector performance. The authors note that “too much government involvement in water development and bureaucratic control in project operation often creates passive users and a rigid administrative system incapable of quickly responding to market forces”. They identified a need for a “clear demarcation of the spheres of responsibility between government, user groups, and non-governmental agencies to improve functional specialisation and operational coordination within water administration”. Water user organisations were seen as an “indispensable ally for improving water sector performance”. They highlight the transaction and opportunity costs of reform as key reasons why reform of policy, law and administration components of an institutional framework do not progress equally in most countries. In other words, national level reform is driven by national level financial considerations.

Where water users associations and SMEs take over more of the traditional government roles of administering water supplies they may therefore become prime movers in operationalising policy at the grassroots level and thus address institutional issues directly. Significant evidence of this is cited where communities manage local irrigation schemes (Saleth and Dinar 2003b). It would be important therefore to know if such broader roles of communities and SMEs in the operationalisation of legal and policy aspects represents a more cost effective route to achieving sector reform on the ground.

In a review of Dutch development assistance for institutional development in the water sector, human resources development, organisational strengthening, and system development were all used as analytical tools (CWPD post 1998). Some NLG 90 billion had been invested in the drinking water & sanitation sector between 1988 and 1998. It was observed that whilst:

*“Recent projects addressed the structural problems of organisations by focusing on the management of core activities, there was considerable resistance to donor interference.”* Also *“The implementation of new institutional development policies faced difficulties because many recipient organisations were unable or reluctant to adapt. Such organisations had limited experience in the social, environmental and economic aspects of water resource management. Human resources development was the most consistently evident component of institutional development. Training improved technical knowledge and individual’s skills, however as it did not take place within a systematic assessment of needs, it often made little difference to the performance of the organisation.”*

Understandably in 1988 private sector participation in rural water supply was less of an objective than at present, even so the evaluation team calls for a clear future strategy to address institutional change that involves public as well as private stakeholders. More recent documentation of Dutch assistance in water supply shows that this message is put into practice (Van Miert & Binabungu 2001. Woodhouse & Lyatu 2000). It is possible to suggest that an approach is emerging in which the implementation of reform is being driven at the grass roots level where local solutions – guided by national policy- may be achieved. In essence this means the State providing guidance rather than absolute rules, enabling autonomy to interpret guidance relative to local conditions and providing oversight and monitoring of the process. This recognises that policy may never be able to provide a perfect solution but requires local capacity to apply what it does offer in good faith.

Whilst the need to consult SMEs when addressing sector reform may appear obvious it can also be overlooked, particularly at the national level. If we choose to address the role of SMEs within an institutional framework then we must begin with a clear idea of whether the private sector are an integral and active part of that framework or a partner whose role is limited to the terms of their contract.

### 5.2.3 *The institutional needs approach: focusing upon capacity.*

Sixteen years ago WASH addressed a situation where a raft of water projects were intending to invest over \$100 million in institutional development without any clear guidelines being established. They examined the projects, proposed an analytical tool and tested it (WASH 1988). That product remains a key reference for any similar analysis today. Essentially, the approach relates the capacity of formal institutions to meet nine performance criteria. Whilst conducted in an era of state provision of water services, it would be possible to adapt the methodology to analyse the capacity of SME's. The nine performance criteria were found to have an order of importance in those institutions that were seen to be successful and were:

- 1) Organisational autonomy.
- 2) Leadership.
- 3) Management and administration.
- 4) Commercial orientation.
- 5) Consumer orientation.
- 6) Technical capability.
- 7) Developing and maintaining staff.
- 8) Organisational culture.
- 9) Interactions with key external institutions.

The study concludes by saying that even with a sound institutional assessment and good design, institutional reform still needs special care to make it work.

These three brief views of generic approaches to analysing institutional frameworks in the water sector illustrate that a focus on macro level reform can exclude the idea that SMEs could play a valuable role beyond that of a service provider. For example the local private sector may well be able to develop and apply codes of practice for construction, water quality and supply, or develop innovative recurrent cost financing schemes. Envisaging what this role could be would be enriched by the views of local level supply owners and sector partners themselves. Understanding its political and economic acceptability, as well as its social benefits would enrich the notion of water governance and represent a new field of research.

National and sub national level studies of sectoral institutional frameworks are common in the health and education sectors. Such studies from Ghana, Tanzania and Zambia may be useful for the present work. Institutional framework studies for the rural water sector are much less common. One specific African example provides a useful illustration.

In South Africa, what began as a contract design project to orient Department of Water Affairs and Forestry (DWAF) contracts towards institutional, social and development, goals found itself having to define a range of entirely new tasks for the first time. (Harris & de la Harpe 1999). The resulting expanded role included illustrating sectoral linkages and designing a new generation of water supply management models. The scope and cost of the programme grew as an understanding of it developed; it took two years to complete and cost £240,000 (in 1999). Their work was highly focussed on community objectives and is said to have succeeded in clarifying social objectives in a highly technical environment. The DWAF subsequently allocated significant funding for follow up.

### **5.3 Key themes**

The international literature is consistent in its identification of key themes to be addressed in institutional reform. Whilst approaches have been shown to differ, it appears that at the local level the following four factors are key themes to be addressed:

- A clear identification and recognition of roles and responsibilities.
- A clear understanding of how the linkages between actors will work.
- The knowledge requirements of the actors is to be identified and addressed.
- The purpose, needs and structures for regulation must be established.

It may also be important to add that a sector in transition may seek both a short term and a long term response to these requirement and this may result in certain risks arising as transition takes place.

There appears to be no 'standard' methodology available to analyse the institutional framework for rural water development. What experience exists identifies the risk that studies can snowball and become expensive and lengthy. This suggests there is a need to establish a "first step" that provides sufficient basic information to focus on high priority actions, both in terms of immediate interventions and follow up studies. In essence this is a rapid assessment technique, whose outcome should be a broad understanding of the roles, limitations and interventions necessary to enable public benefits to arise from SME involvement in the rural water sector. Its scope should not be limited to the role of SMEs only being service providers and it should offer the foundation upon which to decide where financial and practical investments are likely to have high benefit and impact. A very general rapid assessment technique has been proposed by the World Bank, it is however of limited applicability in the context of the present research (World Bank & BNWP 2002).

### **5.4 Regulation**

There is a wealth of literature on regulation in the water sector, but its relevance in the context of SME involvement in the rural sector is questionable. Regulation in the context of privatisation of state owned utilities, is seen as an essential means to separate and moderate the financial interests of the investor from those of the state and the customer (Graham 2000). Given its focus on financial aspects, how well such forms of regulation provide for democratic representation and the interests of broader public benefit is challenged (Woodhouse 2002, Hall et al 2003a). The idea that regulation should be vested in an autonomous third party originates from British models of water privatisation. French models tend towards using a contract as means of regulation, and German models put regulation in the context of the responsibilities of municipally owned corporations accountable to the local electorate (BMZ 2000).

Given that in future, public funds may be the source of rural water supply investment, that communities and local government interests will be similar and that the local SME is very much part of that same community of interests (and may well be paid in kind or by concession) the distinctions between state, investor and customer become blurred. There is however considerable agreement that contracts with SMEs should be regulated to ensure completion, standards and value for work (de Silva 2000); and this is widely seen as a 'state' responsibility. Regulation in the context of rural water supplies is also likely share similar challenges in the areas of democratic representation and the interests of broader public benefit. In particular where there is a history of community built/ owned supplies it is likely that those communities have – to some extent - taken on regulatory responsibilities themselves. For example they may have effective controls over SMEs to ensure quality or completion. Whilst state intervention as a regulator may well be backed by the law its effect may be uncertain and represents a shift of control away from the consumer. In addition the objectives of rural water supply are at present critically focused upon social benefits such as equity, pro poor and gender issues (see for example G8 Water Action Plan 2003). This would suggest that regulation in the rural context should seek a finer balance in its approach. Regulation – by whatever party - has to be related to the real objectives of rural water development and the greater good of a supply should be kept firmly in focus.

## **5.5 Institutional and regulatory issues in Ghana**

### *5.5.1 Institutional arrangements*

The Community Water and Sanitation Agency (CWSA) is the body responsible for facilitating the provision of safe water and related sanitation services to rural communities and small towns. CWSA has offices in all the regions. The regional level staff, referred to as Regional Water and Sanitation Team (RWST) is responsible for regional level co-ordination and facilitation and also supports districts to implement projects initiated by CWSA. Within the framework of Ghana's decentralisation programme, District Assemblies are responsible for the implementation of all development activities (water supply inclusive) in the District. Consistent with this objective, CWSA expects each DA to establish a District Water and Sanitation Team (DWST). Even though the Local Government Act (Act 462) of 1993 does not include the DWST as one of the statutory departments of DAs, the DWSTs established have been performing their functions as "de facto" departments. CWSA itself is not decentralised to the district level. Communities are required to set up a water and sanitation (WATSAN) committee to manage the facilities provided by donors and other NGO's (Pronet/Water Aid, (November, 2001).

### 5.5.2 District Assemblies and District Water and Sanitation Teams

The role of the District Assemblies and District Water and Sanitation Teams is as follows (Ministry of Works and Housing, POM 2000):

- Appraisal and approval of submitted proposals.
- Pre-selects communities based on pre-selection criteria.
- Helps in setting up WATSAN committees.
- Prepares tender documents and sends invitations for tender.
- Awards contracts.
- Trains local artisans to maintain facilities.
- Ensures planning, implementation and sustenance of provided services.
- Certifies audited accounts.
- Contributes 5% of capital cost of facilities (only in IDA financed projects).
- Advertises, prequalifies and orients TA's/Consultants and Contractors.
- Provides information to communities and the private sector.

### 5.5.3 WATSAN committees

The role of village-based water and sanitation (WATSAN) committees includes:

- Managing the operation and maintenance of water facilities.
- Providing hygiene education to the community.
- Operating a bank account and reports on the status of the account to the community.
- Collecting water user fees.
- Keeping WATSAN accounts.
- Organising meetings among members and with the entire community.
- Buying spare parts at spare parts shops or from the area mechanics.
- Contracting an area mechanic or service company for maintenance.
- Organising the cleanliness of hand pump surroundings.

#### 5.5.4 Regulatory mechanisms

CWSA regulates the activities of the private sector in a variety of ways:

##### *Software issues*

##### Community mobilisation and training

The private sector is responsible for community mobilisation and training for all projects instituted by CWSA. CWSA monitors and quality assures the training and community mobilisation activities of Partner Organisations/ Technical Assistants (POs/TAs) contracted to undertake extension services. POs/TAs include local NGOs and SMEs.

##### Training materials

Where required training materials (e.g. WATSAN Handbook) are developed with the approval of CWSA. The facility management plans (FMPs) have also been designed exclusively by CWSA for use by the POs/TAs. The essence of this is to ensure uniformity through regulation.

##### *Technical Issues*

##### Hand pumps

CWSA has standardised four hand pumps for use on its projects in the country. The specifications of these pumps are also prepared by CWSA.

##### Spare parts distribution

CWSA has contracted a private entrepreneur, Foundries and Agricultural Machinery (FAM) to import and distribute spare parts for hand-dumps. FAM has established a national wholesale and has also facilitated the establishment of four regional warehouses with seed money provided by DANIDA and KfW. Both CWSA and FAM are currently engaged in the distribution and licensing of authorised distributors at the district level.

##### Training and licensing of area mechanics

The training and licensing of area mechanics (AM) is regulated by CWSA. The private sector, under the national community water and sanitation sector policy is responsible for the provision of goods and services and area mechanics are required to repair and maintain all facilities. An area mechanic is a private sector operator with expertise in the repair and maintenance of below and above ground components of the hand pump. The area mechanic is provided with tools by CWSA.

##### Supervision of hand pump caretaker training

CWSA is responsible for supervising the training of hand pump caretakers which is usually undertaken by pump manufacturers or suppliers. Training manuals are currently being prepared by CWSA to regulate the training content of area mechanics and pump caretakers.



### Completion certificate

Beneficiary communities are expected, as part of the regulatory mechanism to sign completion certificates for construction activities undertaken in their communities. This is complementary to the supervisory role of private consultants, CWSA and District officials.

### Water quality testing

Within the broad framework of its regulatory function, CWSA facilitates water quality testing for each water facility provided. The idea is to ensure that the physico-chemical and bacteriological parameters of water are within World Health Organisation (WHO) maximum permissible limits.

### Functionality

Periodically, CWSA facilitates the implementation of functionality studies of water facilities. The rationale behind this is to find out the durability and state of performance of facilities provided and secondly, to assess the quality of water provided. Even though this is not a regular practice, under the KfW financed Accompanying Measures Eastern Region (AMER) project, a limited functionality study was undertaken in 1997-98 (IGIP Consulting Engineers, AMER 2001).

## **5.6 Institutional and regulatory issues in Tanzania**

According to the National Water Policy (Government of Tanzania, 2002), access to clean and safe water is a basic need and right for all human beings. It is important that all members of the community including disadvantaged groups have efficiently and equitably access to water supplies. Village and district governments are required to regulate water user entities. Communities are required to ensure the protection and conservation of water sources as well as ensure equitable service provision to economically disadvantaged groups. Mechanisms to ensure entities and private operators are accountable to water users and that water users meet their obligations will be established.

Sustainability of water supply and sanitation services requires that communities take the lead in developing their facilities and be fully responsible for the operation and maintenance of their schemes. It is intended by Government that the private sector should provide support to communities in planning, design, construction and supply of materials, equipment and spares. Under the present National Water Policy, the government will continue to provide technical and financial support as well as co-ordination and regulation of the rural water supply and sanitation sector. ESAs & NGOs should also provide financial and technical support. Integration of water supply, sanitation and hygiene education will require close collaboration with actors in the sanitation sub-sector. It is acknowledged that this new approach requires effective institutionalised linkages between key actors including central government, local government, ESAs, private sector, NGOs, CBOs and the communities themselves.

An effective organisational structure that is simple, transparent, efficient and accountable to communities and the vulnerable needs to be established in order to make rural water supply and sanitation schemes sustainable. The roles and responsibilities to be played by each actor will be carefully and clearly defined, including modalities of having equitable representation in decision making forums; linkages and partnership framework established and properly co-ordinated and nurtured. Activities should be continuously monitored and evaluated to incorporate lessons learnt.

An institutional framework for the development and management of RWSS facilities with clearly defined roles and responsibilities for each actor will be developed and will finally provide a springboard for the development of a proper and agreeable institutional frame. In the light of private sector participation in the rural water supply sector, the small and medium enterprise development policy (Ministry of Industry and trade, April 2003) highlights that the institutions supporting the SME are weak, fragmented, uncoordinated and concentrated in urban areas. Currently numerous stakeholders made up of government ministries and agencies, private sector associations, NGOs and development partners are involved in the development of programs aimed at the development of the SME sector in Tanzania. Most of their programs are ineffective and their efforts are uncoordinated. Although the government has put in place a number of support organisations (eg, Small Industries Development Organisation (SIDO)), these institutions are all under resourced in terms of equipment, personnel and operational funds and therefore unable to discharge their mandated responsibilities. Furthermore, it has been established that government officials responsible for development of the sector do not have enough knowledge, skills and SMEs orientation to create the desired enabling environment for the sector.

In the SME policy it is clearly stated that the government will facilitate strengthening of institutions and associations supporting the SME sector, and that strategies designed to improve the institutional framework include:

- Support for establishment and strengthening of associations of SMEs.
- Establishment of a forum for SMEs.
- Facilitate the strengthening and networking of service providers of SMEs.
- Strengthen the Government capacity to coordinate, monitor and evaluate the policy.
- Enhance the knowledge and skills of relevant Government officials at all levels on SME development.

There is plenty of room for the current study to propose the 'how' based on evident trends that will help provide a unified translation of the two policy positions so that the danger of the apparent good policies continuing as untapped potential may be averted.

### **5.7 Institutional and regulatory issues in Zambia**

Following the reforms the primary legislation prescribing the development and management of water resources is the Water Act, Cap. 198. With respect to water supply and sanitation, the Water Supply and Sanitation Act No. 28 of 1997 anchors the legal framework. According to the Water Supply and Sanitation Act, the obligation of providing water and sanitation services is vested in local authorities. A local authority in this case is defined as:

*“ a body of persons elected or appointed legally, empowered to exercise jurisdiction over a defined geographical area to make decisions for the good rule and government of the area and the provision of social services to such an area.”*

Local authorities acting either through the Ministry of Local Government and Housing or by themselves, through commercial utilities or the private sector, are responsible for provision of water and sanitation services to all areas in the jurisdiction of the local authority. The Department of Infrastructure Support Services (DISS) in MLGH provides technical support to local authorities and assists in the mobilisation and co-ordination of financial resources for all infrastructure development in local authorities.

The Water Supply and Sanitation Act also establishes the National Water Supply and Sanitation Council (NWASCO) as the regulator of providers of WSS services throughout the country. NWASCO, which became operational in 2001, is responsible for developing policies, setting standards and guidelines, licensing water and sanitation utilities and monitoring their performance, and taking any necessary actions to ensure efficient and sustainable provision of WSS services.

Within this policy framework, Government has implemented a broad-based, collaborative and consultative approach to develop strategies sufficiently specific to different sub-sectors with respect to water supply and sanitation. The existing WSS sector strategies include:

- Strategy and institutional framework for the water and sanitation sector.
- Environmental sanitation strategy.
- Per-urban water supply and sanitation strategy (which targets urban low income communities).
- Community Water Supply and Sanitation Strategy (targeting rural areas).

The community water supply and sanitation strategy is not yet formally adopted.

The strategies and institutional arrangements for WSS service provision to urban areas, in particular, are elaborated in the strategy and institutional framework of the water and sanitation sector adopted in 1994. It establishes the framework for the devolution of authority for service provision from central government to local authorities and private enterprises, and it has so far been the basis of the ongoing institutional reform of the WSS sector.

For rural areas, in 1996 Government adopted the WASHE (Water, Sanitation and Health Education) concept as a national strategy for the improvement of WSS services. This strategy facilitates the involvement of the rural population in assessing priorities; determining affordable and sustainable technologies, management, operation and maintenance; and improving health and hygiene practices in rural communities. The strategy is being implemented through district level committees (D-WASHEs), which are part of the formal district level planning process. Communities are encouraged to establish lower level WASHE committees in all rural districts.

The thrust of WSS strategies has a strong pro-poor focus and if effectively implemented can significantly address the basic needs of poor communities in urban and rural areas and release their energies for productive socio-economic activities.

## **5.8 Summary and key needs**

This review of the international literature suggests that there is no generic model applicable to analysing the role of the SME in the context of the institutional framework for rural water supply development. National and sub national experience, studies and participatory approaches are likely to yield the most appropriate approach. There is a great need for focus when approaching such studies which suggests an initial rapid assessment technique is called for. This should yield immediate actions as well as the means to identify future interventions and investigations that are cost effective and of high impact. The literature suggests five themes for this rapid appraisal:-

- A clear identification and recognition of roles and responsibilities.
- A clear understanding of how the linkages between actors will work.
- The knowledge requirements of the actors is to be identified and addressed.
- The purpose, needs and structures for regulation must be established.
- The implications of short term and long term responses during sector transition should be considered.

the 'real' objectives of rural water supply development should be kept in mind. At present these give priority to social benefits, good governance and accountability. The analysis of regulation in the rural context, should include the fundamental requirements to enable good management through contracting, but should also seek to establish a balance with the broader range of priority objectives.

## 6 COMMENTARY FOLLOWING KNOWLEDGE REVIEW

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In Ghana, Tanzania and Zambia the current capacity of SME's and consequently the role they are able to play are different. In Ghana for example, there is a significant demand for service providers to drill boreholes, however the terrain, geology and technical concerns have so far meant that this work has been more successful in the hands of larger rather than smaller scale service providers. In Tanzania there is a demand to scale up a number of successful small-scale private sector interventions, and this requires dissemination of this knowledge throughout government as well increased promotion of the private sector itself. In Zambia, there is significant political will to promote a role for SME's in rural water supply, but as yet the number of SME's able to offer such services is very limited. Given this varied background it is doubtful that a generic set of guidelines can as yet address such specific concerns in detail. Guidelines are therefore country specific tools.

The current literature, though providing an array of guidelines concerned with large scale –urban/peri-urban privatisation and institutional reform, does not address the specific dimensions of rural private sector participation.

What is apparent from reports and meetings is that all three governments in the study countries are actively involved in a process of laying a foundation upon which an expanded future role for the SME in rural water supply can emerge. Whilst this process can be said to be addressing similar facets – and particularly the legal, financial and institutional framework arrangements- it cannot be said as yet that a single method or best practices can be identified. However in being the focal point of national knowledge and experience from the wider community of donors, private sector and civil society, governments are the de facto managers of a process of their own making. This process is not only concerned with driving forward reform but also with establishing a government role in creating and regulating an enabling environment for private sector involvement. Therefore as a result of actively engaging stakeholders, government is establishing credibility in its role as regulator and facilitator. Again the literature does not provide specific guidance for this process of engagement and interaction with the range of stakeholders who are ultimately to be the subject of the framework for rural water supply.

At this stage in the research it is possible to make a general comparative observation that where governments are actively engaging with sector stakeholders, practical sector reforms can take root, and do so as a result of recognition by the stakeholders of the role of government. It is important therefore that the fullest benefits should be gained from this formative process. It is apparent, for example, that donor policies may confound the attempts by government to require consistent approaches to project financing. Where for example a donor insists upon its own requirements for community contributions that are different from those of a government, government regulation cannot be said to be authoritative. The opportunity created by the process of reform and engagement of stakeholders ought therefore to provide the environment in which a range of legal, financial and institutional prerequisite conditions for effective private sector involvement can be mutually explored. It is an opportunity for all of the stakeholders to question their roles and progress within the emerging government system. The design of this research project was therefore questioned in relation to the opportunities it creates for government to consolidate its lead role as well as engage stakeholder opinion.

There is much to be gained from government to government sharing of experiences of the scope and nature of this reform process. Whilst it has been seen that rural private sector participation is likely to be interpreted according to country specific requirements and emerge differently between countries, similarities can be noted regarding the issues to be addressed by the process of reform itself. For example, regardless of the technology to be employed in water supply, SMEs are widely perceived to be a risky partner for a financier to invest in. Governments therefore face a similar task in developing a safeguard against this risk, and this relates to gaining the confidence of donors and financiers to accept political or financial backstopping mechanisms. Sharing knowledge of how such aspects can be achieved not only highlights its relevance range of sector professionals, but it also is a mechanism to build upon a wider experience of how to address a problem.

It has also been recognised that sector reform is not achieved 'overnight', but in practice, may result from a series of piecemeal 'milestones' being achieved. For example the difficulty in setting a water tariff may delay agreement on a national water policy, and so the consequent uncertainty regarding recurrent income from projects would prevent a consistent approach to financing emerging. Countries engaged in rural water sector reform may therefore find themselves addressing issues as driven by political and financial conditions rather than by reference to a strict methodological approach. Nonetheless, similarities are seen to exist both in government's role in the process of sector reform and in the institutional, legal and financial framework they seek to reform.

This suggests that benefits could arise from governments sharing their understanding of the process and scope of addressing sector reform with regard to the private sector. This assumes that there are likely to be similarities in how governments go about creating an enabling and regulatory environment and that sharing this knowledge is likely to provide a broad view of what private sector participation can achieve, improved understanding of how to deal with difficult issues and a means to gauge the progress of all parties. (In seeking stakeholder views and consequently preparing guidelines for a active response using the common methodology of this research, it will be possible for governments to compare their response and progress with that of other partners in the research).

As a result of this knowledge review and work done during the inception phase the purpose and nature of the guidelines proposed by this project can now be given a more substantive definition.

Governments ability to engage with a range of stakeholders such that it is recognised as the driving force behind sector reform, is central to the idea that it is government that enables and regulates private sector participation in rural water supply development. Rather than there being a set of explicit objectives which can be identified, and met by a rigid plan, sector reform is in practice a process that is driven by opportunities and pressures. The outcome of this process is therefore not only changes to legal, financial and institutional frameworks, but also confidence in the abilities and relationships needed to deliver the reforms in practice.

The objective of this project therefore remains the same, that is to investigate how governments can address legal and institutional mechanisms which enable and expand rural small-scale private sector service provision in the water sector. The opportunity provided by this research for governments to be seen to be leading the practical implementation of policy is identified as being a key contribution towards the recognition of this new role by the wider community. Where possible the profile of government leadership in the research should be raised. In addition the benefits of informal government to government exchange of the research findings has been identified as an added benefit of this research. In country teams will be asked to explore how this opportunity could be captured during the remaining phases of the project.





## REFERENCES

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Abuodha C and Bowles R (2000) Business licence reform in Kenya and its impact on small enterprises. Small Enterprise Development Journal, Vol.11, No.3, pp.16-24, ITDG Publications.

Agenda 21 (1992) UN GAOR, UN Doc. A/CONF.151/26/Rev. 1 (1993).

Andrew A (2003) A comparison between the water law reforms in South Africa and Scotland: can a generic national water law model be developed from these examples? Natural Resources Journal Spring 2003, Vol. 43, No. 2. Abstract available at: <http://lawschool.unm.edu/Nrj/43/A>

Ayogu M and Fosu A K (2002) Privatisation and corporate governance: an overview. Journal of African Economies, Volume 11, AERC Supplement 1, pp1-9, Centre for Study of African Economies.

BMZ (2000) Water - resolving conflicts, shaping the future. Special Report No. 9, Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung, Bonn.

Bonn Declaration (2001) Declaration of African ministers responsible for water resources at the international conference on freshwater in Bonn, Germany, 3 to 7 December 2001. <http://www.water-2001.de>

Bonn (2000) International Conference on Freshwater 2001. Available at <http://www.water-2001.de/ConferenceReport.pdf>

Boubakri N *et al* (2002) Does privatisation meet the expectations in developing countries? A survey and some evidence from Africa. Journal of African Economies, Volume 11, AERC Supplement 1, pp111-140 Centre for Study of African Economies.

Briscoe J (1999) The financing of hydropower, irrigation, and water supply infrastructure in developing countries. Water Resources Development, Vol. 15, no. 4.

Brook P and Irwin T (2003) Infrastructure for poor people. World Bank, Washington, ISBN 082135342X.

Brown W (2001) Microinsurance - the risks, perils and opportunities, Small Enterprise Development Journal, Vol.12, No.1, pp.11-24, ITDG Publications.

Camdessus M (2003) Report of the World Panel on Financing Water Infrastructure. World Water Council. Global Water Partnership & 3<sup>rd</sup> World Water Forum. ISBN 92-95017-01-3.

- Chirwa D M (2002) An overview of the impact of the international covenant on economic, social and cultural rights in Africa. Available at [http://www.communitylawcentre.org.za/ser/docs\\_2002/Impact\\_of\\_Socio-economic\\_rights\\_in\\_Africa.doc](http://www.communitylawcentre.org.za/ser/docs_2002/Impact_of_Socio-economic_rights_in_Africa.doc)
- Churchill C (2002) Trying to understand the demand for microinsurance. Journal of International Development, Vol 14, No.3, p 381-387, Wiley, New York.
- CIGI/WEF (2004) Global governance initiative: executive summary. The Centre for Global Governance Innovation for The World Economic Forum summit in Davos, <http://www.weforum.org/pdf/Initiatives/GGI%20summary%20010604.pdf>
- COHRE (2004) Centre on Housing Rights and Evictions. Geneva, Switzerland. [www.cohre.org](http://www.cohre.org)
- CWPD (undated) Centre For Water Policy And Development, University Of Leeds. Institutional Development - Netherlands Support to the Water Sector 1988-1998. <http://www.leeds.ac.uk/cwpd/iobeval.htm>
- Dawson J and Jeans A (1997) Looking beyond credit. ITDG Publications, London ISBN 1853394238.
- De Lucia and Associates (2001) Best practices policy and financing approaches for SSIPs in South Asia. World Bank, Washington.
- de Silva S (2000) Community contracting: a review of stakeholder experience. IBRD/World Bank. Available at [http://www.worldbank.org/watsan/rwsstoolkit/rwss\\_community\\_key.htm](http://www.worldbank.org/watsan/rwsstoolkit/rwss_community_key.htm)
- de Waal D (2003) What sort of rural water supply infrastructure should Tanzania invest in?' WaterAid report, Dodoma, Tanzania.
- DFID (2002) Making connections. Infrastructure for poverty reduction. Department for International Development, London, ISBN 1 86192 5069.
- DFID (2001) Addressing the water crisis: healthier and more productive lives for poor people. Department for International Development, London, ISBN 1 86192 337 6.
- Economist (2004) A survey of risk. Citing the work of John Morrall, Jan 24<sup>th</sup> edition.
- Ehrhardt D (2000) Impact of market structure on service options for the poor. Paper presented at Infrastructure for Development: Private Solutions and the Poor. 1 May-2 June 2000, London, UK
- English E and Henault G (1995) Agents of change. IDRC. ISBN 0889367264
- Estamos Organizaçao Comunitaria / WaterAid (2002) Small Scale private sector participation in Niassa Province - A Case Study.
- European Water Framework Directive (2000) Directive 2000/60/EC of the European Parliament and of the Council of 23<sup>rd</sup> October 2000 establishing a framework for community action in the field of water policy. Document number 300L0060. Official Journal L 327, 22/12/2000

FAO (1996) Readings in African customary water law. Food and Agriculture Organisation of the United Nations, Rome.

Foster V *et al* (2000) Designing direct subsidies for water and sanitation services Panama: a case study. Policy research working paper 2344, World Bank, Washington. [http://wbln0018.worldbank.org/research/workpapers.nsf/0/867dfea0aea38e27852568e200497c6c/\\$FILE/wps2344.pdf](http://wbln0018.worldbank.org/research/workpapers.nsf/0/867dfea0aea38e27852568e200497c6c/$FILE/wps2344.pdf) and at <http://web.mit.edu/urbanupgrading/waterandsanitation/funding/pdf-files/FosterDirectSubsidyJune'00.pdf>

G8 (2003) Water action plan. Available at: [http://www.g8.fr/evian/english/navigation/2003\\_g8\\_summit/summit\\_documents/water\\_-\\_a\\_g8\\_action\\_plan.html](http://www.g8.fr/evian/english/navigation/2003_g8_summit/summit_documents/water_-_a_g8_action_plan.html)

Gleick P (1999) The human right to water. *Water Policy*, Vol 1, No 15.

Government of Tanzania (2002) Water policy. Ministry of Water and Livestock Development, Dar es Salaam, Tanzania

Government of Tanzania (2003) Small and medium enterprise development policy. Ministry of Industry and Trade, Dar es Salaam, Tanzania

Graham C (2000) Regulating public utilities: a constitutional approach. Hart Publishing, Oxford.

GRZ (undated) Rural water supply and sanitation annual plan 2003-2004. Ministry of Local Government and Housing, Republic of Zambia.

GRZ (1994) National water policy. Ministry of Energy and Water Development, Government of the Republic of Zambia, Lusaka.

Gunningham N (2002) Regulating small and medium sized enterprises. *Journal of Environmental Law*, Vol.14, No1, pp.3-32.

GWP (2003) Effective water governance: learning from the dialogues. Global Water Partnership. Available at: <http://www.gwpforum.org/gwp/library/Effective%20Water%20Governance.pdf>

GWP/IHE (2004) Toolbox for Integrated Water Resource Management. Available at [www.gwp.ihe.nl](http://www.gwp.ihe.nl)

Hall D *et al* (2003a) Public solutions for private problems? - responding to the shortfall in water infrastructure investment PSIRU, University of Greenwich Available at [www.psiru.org](http://www.psiru.org)

Hall D and Lobina E (2003) International solidarity in water: public-public partnerships in north east Europe. PSIRU University of Greenwich, UK. Available at [www.psiru.org](http://www.psiru.org)

Hall D *et al* (2002) Water privatisation in Africa. <http://www.psiru.org/reports/2002-06-W-Africa.doc>

Hall D *et al* (2003b) Financing water for the World: an alternative to guaranteed profits. Available at [www.psiru.org](http://www.psiru.org)

- Hallberg K (2000) A market-oriented strategy for small and medium scale enterprises. Discussion paper 40, April, International Finance Corporation, Washington DC.
- Harper M (1984) Small business in the Third World. Wiley, ISBN 0471904740.
- Harper M (2000) Public services through private enterprises: micro privatization for improved delivery. ITDG Publishing, London ISBN 1853395196.
- Harris K and de la Harpe J (1999) Institutional and social development package for water. Proc 25<sup>th</sup> WEDC Conference Addis Ababa.
- Harper M and Svyakarnam (1998) Rural enterprise. IT Publications. ISBN 1853390011.
- Havers M (1999) Microenterprise and small business leasing – lessons from Pakistan, Small Enterprise Development Journal, Vol 10, No 3, , ITDG Publishing.
- Howsam P *et al* (1999) Water law, water rights and water supply (Africa). DFID KaR project R7327 study report. Cranfield University / DFID.
- IWES (1983) Water supply and sanitation in developing countries. Chapter 13 in Water Practice Manual 3, Institution of Water Engineers and Scientists (now Chartered Institution of Water and Environmental Management), London, UK.
- Kirkpatrick C and Parker D (2003) Regulatory impact assessment: developing its potential for use in developing countries. Working Paper Series No 56. Centre on Regulation and Competition, IDPM, University of Manchester. <http://idpm.man.ac.uk/crc/>
- Kyoto Declaration (2003) Ministerial message from the Lake Biwa and Yodo River basin. 3rd World Water Forum Kyoto, Japan 23 March 2003.
- Mutesasira L K, Osinde S and Mule N R (2001) Financing mechanisms for micro and small businesses for small assets: potential for development of leasing products. MicroSave Africa, Nairobi. Available from [http://www.microsave-africa.com/study\\_programme.asp?ID=11](http://www.microsave-africa.com/study_programme.asp?ID=11)
- Levitsky J (1989) Micro enterprise in developing countries. ITDG Publishing, London ISBN 185339016
- McCord M (2001) Health care microinsurance - case studies from Uganda, Tanzania, India and Cambodia. Small Enterprise Development Journal Vol.12, No.1, pp.25-38, ITDG Publishing.
- Mechta M (2004) Personal Communication to Woodhouse M. Interview with former DANIDA Water Sector Advisor Uganda, Jan 2004.
- Minogue M (2002) Public management and regulatory governance: problems of policy transfer to developing countries. Centre on Regulation and Competition IDPM University of Manchester. <http://idpm.man.ac.uk/crc/>
- Mitlin D (2002) Competition, regulation and the urban poor: a case study of water centre on regulation and competition, IDPM, Univ. of Manchester <http://idpm.man.ac.uk/crc/>

Mlinga RS and Wells J (2002) Collaboration between formal and informal enterprises in the construction sector in Tanzania. Habitat International Journal, Vol 26 No. 2 pp 269-280, Pergamon.

Mosley P (2001) Insurance against poverty? The 'new generation' agricultural microinsurance schemes Small Enterprise Development, Vol.12, No.1, pp.51-58.

Nchimbi M I (2003) Gender and entrepreneurship in Tanzania: comparative analysis of male-female's start up motivation, individual characteristics and perceptions of business successes.

ODI (2002) Water policy brief July 2002. Overseas Development Institute, London. Available at [http://www.odi.org.uk/rpeg/wpp/prsp\\_bp.pdf](http://www.odi.org.uk/rpeg/wpp/prsp_bp.pdf)

OECD *et al* (2003) Facing a crisis of confidence in private sector participation in the water sector. Proc. Conf. Private Sector Participation in Municipal Water Services in Central and Eastern Europe and Central Asia. Vienna July 2003.

Oyo A (2001) Creating successful private sector supply chains: a resource guide for rural water supply and sanitation practitioners. Water and Sanitation Program, Available at [http://www.wsp.org/08\\_Category\\_output.asp?Category=Supply+Chains](http://www.wsp.org/08_Category_output.asp?Category=Supply+Chains)

Plummer J (2002) Focusing partnerships: a sourcebook for municipal capacity building in public-private partnerships. Earthscan. ISBN 1853838381.

PPIAF (undated) Small private water and sanitation providers in rural areas. Activity and output notice available at:

<http://wbln0018.worldbank.org/ppiaf/activity.nsf/a2f3d4b2aec6a45a85256c390069271b/0173dfaba6cea13c8525693b005c7475?OpenDocument>

RSA (1997) Republic of South Africa white paper on water policy. 30<sup>th</sup> April 1997 <http://www.thewaterpage.com/policyandlaw.htm> and Republic Of South Africa Water Services Act. Act 108 Of 1997.

Saleth R M and Dinar A (2003a) Evaluating water institutions and water sector performance: World Bank Working Paper. Available at: [http://econ.worldbank.org/files/24973\\_TP447.pdf](http://econ.worldbank.org/files/24973_TP447.pdf)

Saleth RM and Dinar A (2003b) Water challenges and institutional responses. Available at: [http://econ.worldbank.org/programs/rural\\_dev/topic/23806/library/doc?id=24972](http://econ.worldbank.org/programs/rural_dev/topic/23806/library/doc?id=24972)

Scanlon J *et al* (2003) Water as a human right? *Proc 7th Int. Conf. on Environmental Law*. Water the Web Of Life. Sao Paulo Brazil June 2003. IUCN.

Schouten T and Moriarty P (2003) Community water, community management. ITDG UK.

Snell S (1998) Small-scale providers: typology and profiles. WSP Report, World Bank. Available at: [http://www.wsp.org/pdfs/global\\_typology.pdf](http://www.wsp.org/pdfs/global_typology.pdf)

Sohail M *et al* (2003) Private infrastructure service providers - learning from experience. DFID KaR R8177

Tournee J and van Esch W (2001) Community contracts in urban infrastructure works – practical lessons from experience. ILO/ ASIST, Harare ISBN 9221124088.

Tremolét S (2002) Rural water service. Note No 249. World Bank Private Sector and Infrastructure Network.

Turton C (2000) Sustainable livelihoods and project design in India. Sustainable livelihoods Working Paper Series No. 127, Overseas Development Institute, London, ISBN 0 85003 460 4.

UNDP (2000) Millennium development goals. Available at: <http://www.undp.org/surfw/links/linksmdg.htm>

UNESCO (1966) International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted 16 Dec. 1966, entered into force 3 Jan 1976. UN doc. A/6316 (1966), 993UNTS 3, reprinted in 6 ILM 360 (1967).

UNESCO (2001) Water: a key resource for sustainable development, Commission on Sustainable Development, E/CN.17/2001/PC/17.

UNESCO (2002) General Comment No 15(2002). *The Right To Water*. United Nations Economic and Social Council. 11-29 November 2002. Geneva. E/C.12/2002/11. Available at <http://www.unhchr.ch/html/menu2/6/gc15.doc> visited 14 March 2003

UNGA (2004) General Assembly 58<sup>th</sup> Session, adoption of draft resolution for an International Decade for Action – Water for Life 2005-2015.

United Nations (1991) The Dublin Statement, The International Conference on Water and the Environment. Dublin, Ireland.

Van Miert T and Binamungu D (2001) The Shinyanga experience: water users' group concept. SKAT, Switzerland.

Vandemoortle J (2001) Are the MDGs feasible ? UNDP Bureau for Development Policy, New York, June 2001. Available at: [www.undp.org/governance/docsaccount/are-the-mdgs-feasible.pdf](http://www.undp.org/governance/docsaccount/are-the-mdgs-feasible.pdf)

Wakelin O (2000) The role of small informal enterprises in rural transport in sub Saharan Africa. Cranfield University MPhil thesis.

WASH (1988) Guidelines for institutional assessment of water and wastewater institutions. WASH Technical Report No 37 [http://www.dec.org/pdf\\_docs/pnaaz336.pdf](http://www.dec.org/pdf_docs/pnaaz336.pdf)

WaterAid and Tearfund (2003) New roles, new rules: does private sector participation benefit the poor? Briefing Paper available at [http://www.wateraid.org.uk/in\\_depth/in\\_depth\\_publications/chronological\\_list/1558.asp](http://www.wateraid.org.uk/in_depth/in_depth_publications/chronological_list/1558.asp)

Wateraid (2003) Demand response approach in practice: why sustainability remains elusive. Discussion paper. Available at: [http://www.wateraid.org.uk/in\\_depth/in\\_depth\\_publications/chronological\\_list/1558.asp](http://www.wateraid.org.uk/in_depth/in_depth_publications/chronological_list/1558.asp)

WaterAid *et al* (2004) Right to water website [www.righttowater.org.uk](http://www.righttowater.org.uk)

WHO *et al* (2003) The right to water. World Health Organisation, Geneva, Switzerland, ISBN 92 4 159056

Woodhouse M and Lyatuu G (2000) Report on a stakeholder workshop to identify future options for water supply, Shinyanga, Tanzania. Royal Netherlands Embassy, Dar es Salaam.

Woodhouse M (2002) How is 'democratic accountability' being established in the Scottish water industry? Journal of Water Law Vol. 13 Issue 2 2002 Lawtext publishing UK.

Woodhouse M (2003) Is public participation a rule of the Law of International Watercourses? Natural Resources Journal Vol. 43 No 1.

Woodhouse M (2004a) How is state accountability for meeting 'right to water' obligations to be achieved? (*Forthcoming*) Doctoral research paper.

Woodhouse M (2004b) International legal requirements to recognise and report on a minimum quantity of domestic water supply. (*Forthcoming*) doctoral research paper.

World Bank and BNWP (2002) Rural water supply and sanitation toolkit for multi sector projects. World Bank-Netherlands Water Partnership. Available at: [http://www.worldbank.org/watsan/rwsstoolkit/material/rwss\\_pub.pdf](http://www.worldbank.org/watsan/rwsstoolkit/material/rwss_pub.pdf)

World Bank (2000) Targeted collaboration among line agencies, local communities, and the Ministry of Health. Urban Environmental Sanitation Project (USEP). Available at: <http://www.worldbank.org/afr/environmentalhealth/chapter16.pdf>

World Bank (2003a) A sourcebook for poverty reduction strategies. World Bank, Washington.

World Bank (2003b) Water resources sector strategy: strategic directions for World Bank Engagement. World Bank, Washington.

World Bank (2003c) World development report 2004: Making services work for the poor. Oxford University Press, New York.

World Water Council (2000) A water secure World. Available at: <http://www.worldwatercouncil.org/Vision/Documents/CommissionReport.pdf>

Wouters P K (1999) The legal response to international water conflicts: The UN Watercourses Convention and beyond. German Yearbook of international Law. Vol 42 Duncker & Humboldt Berlin 2000.

WSSD (2002) Plan of implementation. World Summit On Sustainable Development Johannesburg, September 2002.

Yepes G (2002) Pricing policies in the water and sanitation sector. implementation review. A background paper prepared for OED, April 2002.

