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# Water Law, Water Rights and Water Supply (Africa)

## UGANDA - study country report

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[Study country reports also produced for Ghana, Mozambique, Tanzania, Zambia]

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# STUDY REPORT

## STUDY SUMMARY REPORT

### STUDY COUNTRY REPORTS

Ghana

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## 2.4 Study Country Report - Uganda

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## 1. INTRODUCTION

The scoping study on Water law/rights and domestic water supply and sanitation provision in Africa has been undertaken in five African countries namely Uganda, Tanzania, Zambia, Mozambique and Ghana. The study was co-ordinated by the Water Management Group (Natural Resources Management Department) of Cranfield University, Silsoe, United Kingdom, in collaboration with the Water Law and Policy Programme of the University of Dundee, Scotland.

### 1.1 PURPOSE OF THE STUDY

The purpose of the study is to identify the constraints and enabling conditions provided by existing water and sanitation laws (statutory and customary) with regard to the poor receiving or having access to a safe and reliable supply of water and good sanitation. The focus is on the rural poor who currently form the biggest percentage of the poor in Uganda.<sup>1</sup>

Poverty has been defined as the inability of an individual or family to command sufficient resources to satisfy basic needs.<sup>2</sup> Water is one of the most basic needs of humankind, and contributes greatly to the quality of human life. Focusing on access to water supply and sanitation provision for the rural poor will provide an opportunity for better implementation of law and policy to improve the social needs of the Ugandan populace and foster equitable development in this country.

### 1.2 SCOPE OF STUDY AND METHODOLOGY

The study concentrates on the rural poor in Uganda. The study report covers the legal and policy framework for water and sanitation; the nature and status of customary water rights; the nature and status of water supply and sanitation provision for rural livelihoods; an analysis of the materials to identify enabling conditions and constraints; and finally conclusions and recommendations.

Most of the study has been desk research especially the legal and policy framework. Visits to the Directorate of Water Development (DWD), international agencies and non-governmental organisations where informal interviews were held generated information on the prevailing customary practice, application of water law and policy, and the nature and status of water supply and sanitation provision. No field visits were made to ascertain the conditions in the rural areas or gather views from the rural people. Consequently, the report is lacking in that material particular. However, the views gathered appear to be representative of the rural societies. Due to the constraints of time, and the nature of work of these agencies, it was not possible to visit all agencies active in the water sector. The organisations visited are operational in different parts of Uganda and therefore provide a general picture of the state of water supply and sanitation provision in Uganda, and a sight into the enabling conditions and constraints of water laws and policies.

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<sup>1</sup> 49.7% rural poor, Vision 2025, A strategic Framework for National Development, Vol.one, Feb. 1999, p.201

<sup>2</sup> Ibid, p.199

## 2. THE POLICY AND STATUTORY LEGAL FRAMEWORK FOR WATER (AND SANITATION)

### 2.1 NATIONAL WATER POLICY

The basic policy document is the Draft National Water Policy of Uganda, which was tabled to Cabinet on 15th February, 1999, following various revisions.<sup>3</sup> The Draft National Water Policy promotes a new integrated approach to sustainably manage water resources in ways that are most beneficial to the people of Uganda. The majority of the Ugandan population reside in rural areas<sup>4</sup> and therefore are one of the primary targets of the policy.

The policy reflects the socio-economic, development and financial fabric prevailing in present day Uganda and on this basis makes plans for the future of Uganda. The future framework within which the Water sector is set to function is primarily contained in the National Water Policy (1997), and the Water Statute, 1995.<sup>5</sup>

Water resources management is one of the two distinct categories under which the policy was developed (the other being water development and use). Water resources management provides, inter alia, for the allocation and protection of resources. Water development and use covers, amongst other areas, policy objectives principles and strategies for the development and use of water for:

- domestic water supply as defined in the Water Statute, 1995,
- water for agricultural production.<sup>6</sup>

The policy guides development efforts through promoting better provision of urban and rural water supply and sanitation. Priority has been accorded to domestic water supply and sanitation services.<sup>7</sup> It is noted that one of the main problems facing the population is low accessibility to safe water facilities which currently stands at about 35% coverage for rural areas and 60% for urban areas. It is also estimated that only 45% of the population has reasonable sanitation facilities.<sup>8</sup> The policy objective therefore is "sustainable provision of safe water within easy reach and hygienic sanitation facilities, based on management responsibility and ownership by the users, to 75% of the population in rural areas and 100% of the urban population by the year 2000 with 80% - 90% effective use and functionality of facilities".<sup>9</sup>

The policy lays down strategies through which this objective can be achieved by involving the beneficiaries and the private sector in the decision making process and in the management of resources at the lowest appropriate level. The essential role of women in the provision, management and safeguarding of water and in health and hygiene promotion is recognised.<sup>10</sup> A service level criteria of 20 to 25 litres per capita per day from a public water point preferably within 1,500 metres of all households in rural areas, and 200 metres maximum

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<sup>3</sup> Comments of Mr. Mogens Mechta, DANIDA Chief Sector Advisor, DWD.

<sup>4</sup> Uganda Human Development Report, UNDP, 1998, p. 31.

<sup>5</sup> Draft National Water Policy, p.1.

<sup>6</sup> Ibid.

<sup>7</sup> Supra p. 2 and 4.

<sup>8</sup> Supra p. 14.

<sup>9</sup> Ibid.

<sup>10</sup> Supra pp. 8,18.

walking distance in peri urban areas is set.<sup>11</sup> Appropriate technology for water supply and sanitation is recommended. Management and sustainability aspects are provided for and these include capacity building at national and sub-national levels right down to the grassroots (training of users); operations and maintenance in rural and peri-urban areas starting from the grassroots level; sustainability and ownership aspects which are a prime objective of all water supply and sanitation interventions.<sup>12</sup>

The role of non-governmental organisation (NGOs) and community based Organisation (CBOs) in water supply and sanitation provision in rural and peri-urban areas is recognised. These organisations supplement the efforts of the public sector and help to ensure that the concerns of the underprivileged are incorporated in the national development process. Government pledges to strengthen its relationship with NGOs and CBOs through the establishment of a regular forum for information exchange as well as formulation of guidelines for harmonised and co-ordinated operations.<sup>13</sup>

The policy takes cognisance of Uganda's international and regional obligations. It endorses various declarations and guiding principles emanating from international fora on water resources management particularly Chapter 18 of Agenda 21. Uganda's location as both a lower and upper riparian in the Nile Basin is noted and regional co-operation for optimal resource use is encouraged within the accepted principles of international law on the use of shared water resources.<sup>14</sup> At a national level, Uganda needs to safeguard the water quality of her lakes.<sup>15</sup>

The policy provides for a priority action programme to ensure that water resources management, and water supply and sanitation goals are achieved.<sup>16</sup>

Though the policy is still a draft policy, it builds on good practice established in this area and lays emphasis on domestic water supply and sanitation provision.

## 2.2 NATIONAL WATER LEGISLATION (THE WATER STATUTE, 1995)

According to its long title, the purpose of the Water Statute is to provide for the use, protection and management of water resources and supply; to provide for the constitution of, and facilitate the devolution of water supply and sewerage undertakings. The objectives of the statute include the promotion of the rational management and use of the waters of Uganda through application of appropriate standards and techniques; and the co-ordination of all public and private activities which may influence the quality, quantity, distribution, use or management of water resources. Promotion of the provision of a clean, safe and sufficient supply of water for domestic purposes to all persons is a major objective.<sup>17</sup>

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<sup>11</sup> Supra p. 15.

<sup>12</sup> Supra p. 18-19.

<sup>13</sup> Supra p.20.

<sup>14</sup> Supra p. 4-5.

<sup>15</sup> Supra p. 9.

<sup>16</sup> Supra p.31.

<sup>17</sup> Section 4, Water Statute, 1995.



"Domestic use" is defined in section 2 of the statute to include use for the purpose of basic human consumption; watering not more than thirty livestock units, (approximately 43 cattle or 50 horses or 75 donkeys or 200 goats or 200 sheep or a mixture of these animals); subsistence agriculture, and watering a subsistence fish pond.

As indicated in the Draft National Policy, and evidenced from the findings of the research, DWD's first priority is provision of water for domestic use. The policy categorically states that in allocating water, water allocation for the domestic needs of a community should be reserved within the total available from each water resource.<sup>18</sup>

All rights in water are vested in the Government and are exercised by the Minister responsible for water and the Director DWD.<sup>19</sup> The statute gives general rights to use water that naturally exists on the land to the occupier of that land for domestic use, fire fighting or irrigating a subsistence garden. Water that exists under the land occupied may be used by the occupier with the approval of the water authority responsible for the area. The general rights to use water do not per se authorise a person to construct any works. According to section 6 of the statute, no person acquires any rights to use water or to construct or operate any works unless authorised under Part II of this statute. Water is defined to include surface waters whether contained in a river, stream, lakes, swamp or elsewhere on the surface of land, ground water, and such water as the Minister may from time to time declare to be water<sup>20</sup>. Thus, unless a person is an occupier of land on which surface water exists, water may not be used for any purpose without the approval of an authority. The general rights to use surface water are limited to domestic use and fire fighting once again indicating the importance attached to water supply for domestic purposes. Government's rights in water are further entrenched in the compensation provisions. If damage is caused to land or property of an occupier through the exercise of powers conferred upon authorised persons by the Water Statute, government should compensate all parties having an interest in that land.<sup>21</sup> However, no compensation can be paid for the taking or use of water on that land unless the effect of such taking or use is to deprive the owner or occupier of the right to use water<sup>22</sup>.

The statute makes provision for water resources planning. Provision is made for water resources investigation in section 12 of the statute, and this includes data collection and construction of works. In carrying out investigations, an authorised person has powers to enter any land but must leave the land as nearly as possible in the condition in which it was prior to entry.<sup>23</sup> The attachments/fixtures to the land made by the authorised person do not become part of the land and thus the owner or occupier acquires no proprietary interest in them.<sup>24</sup> This ensures that the state equipment is not appropriated by an individual.

Section 18 makes it clear that a person is not allowed to construct or operate any works unless he has a permit granted for that purpose by the Director, DWD. Construction is defined to include alteration, improvement, maintenance and repair. The Director may, however, exempt a person from the provisions of section 18 on such conditions as he thinks

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<sup>18</sup> Draft National Water Policy, p. 29.

<sup>19</sup> Section 7, Water Statute, 1995.

<sup>20</sup> Section 7, Water Statute, 1995.

<sup>21</sup> Section 2, Ibid.

<sup>22</sup> Section 33(4); Ibid.

<sup>23</sup> Section 15, Ibid.

<sup>24</sup> Section 14(3), Water Statute, 1995.

fit.<sup>25</sup> Most local authorities and NGOs have been operating under such exemptions; and therefore have not had to undergo the rigorous procedures of application for a permit.

Easements are provided for as a means of enabling persons who have failed to obtain agreements with land owners, to gain access to water or waste discharge. Although the definition of easements in the statute is more restrictive<sup>26</sup> than that in common law, it is arguable that a court of law would apply a wider interpretation to the term in order to give proper effect to the statute and ensure that justice is done.

Waste management and pollution control are provided for. No person is allowed to cause or allow waste to come into contact with water or in any way to pollute water.<sup>27</sup> This provision caters for sanitation as well. Failure to abide by this law is an offence and attracts penalties that include environmental restoration orders.

Having dealt with water resource planning, the statute turns to water resource management. DWD is the government department charged with the overall responsibility for water resource management, co-ordination and regulation of the water sector as well as overseeing and supervising the development and exploitation of water resources.<sup>28</sup> At the apex of the management structure is the Water Policy Committee (WPC) comprised of independent experts and officers from line ministries, departments and institutions chaired by the Permanent Secretary of the Ministry responsible for water resources with the Director, DWD as Secretary.<sup>29</sup> The WPC's functions, include reviewing the law relating to water, co-ordinating the formulation of national policies relating to national and international water resources, national priorities for the use of water, the implementation of the Water Action Plan (WAP). It carries out its co-ordination activities in consultation with the National Environment Management Authority.<sup>30</sup>

At the sub-national level, water authorities and sewerage authorities may be appointed by the Minister for designated water supply and sewerage areas. The functions of such authorities include the provision and management of water supply and sewerage services.<sup>31</sup> These authorities are envisaged to be private sector bodies who would operate in a water supply or sewerage area for gain. As such, they would most likely steer clear of rural areas where capital investment would be high and returns very low if any. The more appropriate organisations for rural areas are the Water User Groups (WUG) and Water User Associations (WUA). WUGs are formed by individuals or households who plan and manage a point source water supply system in their area. The WUG operates through a water and sanitation committee which is the executive organ of the Group and in addition to water supply is responsible for sanitation and hygiene in the area. The WUG is responsible for operations and maintenance costs of its point source water supply system and may collect revenue for that purpose which tariffs must be approved by the Director.<sup>32</sup>

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<sup>25</sup> Section 19, *Ibid.*

<sup>26</sup> Sections 2 and 36, *Ibid.*

<sup>27</sup> Section 31, *Ibid.*

<sup>28</sup> Ezron Rwamwanja, *Community Water Supply Study Report*, March 1999.

<sup>29</sup> Section 9, *Water Statutes*, 1995.

<sup>30</sup> Regulation 13, *Water Resources Regulations*, 33 of 1998.

<sup>31</sup> Section 45, 46, 47, *Water Statute*, 1995.

<sup>32</sup> Section 50, *Ibid.*

WUA's are formed where a water supply system serves more than one WUG. The Water and Sanitation Committees of each WUG form a WUA which consists of agreed representatives of each committee. The WUA then manages the water system and may collect revenue for system maintenance purposes with the approval of the Director.<sup>33</sup>

Local authorities are authorised under section 2(2) to organise the formation of WUG's and WUA's within their jurisdiction.

## 2.3 OTHER RELEVANT LEGISLATION

### 2.3.1 National Legislation

#### **The National Environment Statute, 1995**

The National Environment Statute (NES) was passed in May, 1995 as the principal law governing environment management in Uganda. The statute is a framework legislation that addresses all known issues of environment management. It provides for sustainable management of the environment and for the establishment of the National Environment Management Authority as a co-ordinating, monitoring and supervisory body for that purpose.

"Environment" is defined in section 2 as the physical factors of the surroundings of human beings including land and water. Therefore issues relating to water fall within the ambit of the NES. The justification for an environmental umbrella body and framework law were found in the inadequacies of the sector specific laws and policies that failed to take cognisance of their effect on other sectors. The wisdom of the lawmakers of the NES was in making this law as a guiding law, laying down the basic principles that should be followed by all sectors affected. Thus the provisions of the NES regarding water are basic provisions regarding water quality standards,<sup>34</sup> effluent discharge standards,<sup>35</sup> the use of lakes and rivers, and the management of river banks and lake shores.<sup>36</sup> Section 37 imposes restrictions on the use of wetlands other than traditional uses like fishing. Use of lakes, rivers and wetlands for basic human consumption needs is not restricted. However, use of water for irrigation of subsistence agriculture or livestock would require authorisation from NEMA in consultation with the lead agency which in this case is DWD. It was envisaged that specificity would be lent to this framework law through guidelines and regulations, and through sector specific laws like the Water Statute that was subsequently passed.

It is worth noting that institutional conflicts arose immediately with DWD staking their bid in the water sector<sup>37</sup> as specialists in this field, and NEMA asserting its supervisory powers through the passing of its own set of effluent discharge regulations,<sup>38</sup> when DWD had already passed its Water (Waste Discharge) Regulations, 1997.<sup>39</sup> It remains to be seen which regulations will be declared applicable by the courts of law. This jostling between NEMA and DWD has no direct effect on the rural population since the issues at hand are not ones that necessarily concern them. Nevertheless, these unhealthy occurrences have the effect of

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<sup>33</sup> Section 51, Ibid.

<sup>34</sup> Section 26, National Environment Statute 4 of 1995.

<sup>35</sup> Section 27, Ibid.

<sup>36</sup> Section 35 and 36, Ibid.

<sup>37</sup> Section 3(2),(4), Water Statute, 1995.

<sup>38</sup> The National Environment (Standards for Discharge of Effluent into Water or on Land) Regulations 1999, Statutory Instrument No. 5 of 1999.

<sup>39</sup> Statutory Instrument No. 32 of 1998.

causing paralysis within institutions and thus delaying other activities that are of direct benefit to the targeted beneficiaries.

### **The Local Government Act, 1997**

The Local Government Act (LGA) was an act passed to give effect to the decentralisation and devolution of functions, powers and services; and to provide for decentralisation at all levels of local government to ensure good governance and democratic participation in, and control of decision making by the people. According to the second schedule to the LGA, the Central Government is responsible for water resources and the environment.<sup>40</sup> The District Council is, however, responsible for the provision and maintenance of water supplies in liaison with DWD.<sup>41</sup> The Urban Councils are responsible for sanitary services and for water supplies outside the jurisdiction of the National Water and Sewerage Corporation.<sup>42</sup> The Lower Local Government Councils (sub-county or division) are responsible for the protection and maintenance of local water resources.<sup>43</sup> It is the function of the various executive committees, including the parish or village executive committees, to generally monitor projects and other activities undertaken by government, local governments, and non-governmental organisations in their area.<sup>44</sup> Thus the activities of the various actors in the water sector would be monitored by these committees. The Water Authorities, User Groups, Sanitation Committees and Associations would therefore have to collaborate with the local councils in the areas of water and sanitation management.

Laws are supposed to complement each other, thus the management provisions of the LGA should be read to elaborate the provisions of the water statute. The management groups created under the Water Statute should therefore be retained to carry out the purposes for which they were established which purposes are specific and limited unlike the functions of the local councils. Consequently the operations and maintenance functions and the revenue collections for that purpose should be left within the ambit of the Water Statute created management structures to ensure sustainability of the water resources. Otherwise, the revenues collected will be lost in the lower local government budget and the water users will be unable to protect their clean water sources.

### **The Land Act, 1998**

This act provides for the tenure, ownership and management of land. It recognises customary tenure as a form of land holding<sup>45</sup> and thus places customary tenants in a position of ownership of land unlike the Land Reform Decree, 1975, that made them tenants at sufferance. There is therefore a possibility that what previously was "free for all" may be alienated to an individual. A protection clause is provided in section 28 which states that any decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally shall be in accordance with the custom, traditions and practices of the community concerned. Customs that ensured access to water can therefore be invoked to protect this particular right.

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<sup>40</sup> Part I, Second Schedule, Local Government Act 1 of 1997.

<sup>41</sup> Part 2, Ibid.

<sup>42</sup> Part 3, Ibid.

<sup>43</sup> Part 4, Ibid.

<sup>44</sup> Section 50(8), Local Government Act, 1997.

<sup>45</sup> S.4(1), Land Act 16 of 1998.

Furthermore, provision is made for communal land associations which may be formed for management of land whether under customary law or otherwise.<sup>46</sup> Such Associations may set aside land for such common uses as grazing and watering livestock, and such other purposes as may be traditional among the community using land communally.<sup>47</sup>

The Act recognises other forms of tenure namely freehold, mailo and leasehold.<sup>48</sup> Any person who owns or occupies land under any tenure must manage and utilise that land in accordance, inter alia, with the National Environment Statute, 1995, the Water Statute, 1995 and any other law.<sup>49</sup> The Government and Local Government shall hold in trust for the people and protect natural lakes, rivers, ground water, natural ponds, natural streams and wetlands for the common good of the citizens of Uganda.<sup>50</sup>

These provisions of the Land Act if applied with the Water Statute and the National Environment Statute would ensure adequate protection of water resources and access to these resources by all persons for domestic purposes.

### **The Public Health Act, Cap. 269**

This Act was passed to consolidate the law regarding the preservation of public health. Of particular import are the provisions regarding sanitation. The Act imposes a duty upon local authorities to maintain cleanliness and prevent nuisances.<sup>51</sup> Nuisances are defined to include unhealthy dwelling places or premises, dirty wells or water sources whether public or private from which water is used or likely to be used by human beings for drinking or domestic purposes, any dwelling, building or premise not provided with sufficient and sanitary latrines.<sup>52</sup> All buildings must be constructed with sanitary conveniences and appropriate drainage facilities.<sup>53</sup>

The Public Health Rules<sup>54</sup> make more detailed provisions on health and sanitation in rural areas. The rules provide for siting and ventilation of dwelling houses including the building and placing of kitchens and bathrooms.<sup>55</sup> Latrines are to be sited at an appropriate distance from the dwelling house, kitchen, food store or water source.<sup>56</sup> Every householder is duty bound to provide a latrine, maintain it in proper sanitary condition,<sup>57</sup> and use it for the purpose for which it was constructed.

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<sup>46</sup> Section 16, Land Act 1998.

<sup>47</sup> Section 24.

<sup>48</sup> Section 3.

<sup>49</sup> Section 44.

<sup>50</sup> Section 45(1)

<sup>51</sup> Section 57, Public Health Act.

<sup>52</sup> Section 59.

<sup>53</sup> Section 73.

<sup>54</sup> The Public Health (Rural Areas) Health and Sanitation Rules 1968, Statutory Instrument No. 178 of 1968.

<sup>55</sup> Rules 1-8.

<sup>56</sup> Rule 10.

<sup>57</sup> Rule 9.

Rules 21-23 provide for water supplies. No person shall pollute, damage, bathe or wash in a spring, well, water-hole, dam or at a place on a lake or river where the public draw water for domestic purposes. Animals are prohibited from getting into water which is used by the public for drinking or bathing. A local administration is authorised to set aside special areas for drawing drinking water or for watering animals. Contravention of these rules attracts a fine or imprisonment.<sup>58</sup>

Though comprehensive, the public health and sanitation laws have not been applied much due to lack of personnel at the grassroots, logistical problems and the ridiculously low fines that are imposed. Thus sanitation activities have been incorporated into the water sector by DWD and the NGOs active in this sector. The Ministry of Health is currently reviewing its activities and laws and a proposed environmental health bill and environment health policy is in the offing.<sup>59</sup>

### **The Constitution of the Republic of Uganda, 1995**

It is a national objective and directive principle of State policy that the state shall protect important natural resources including land, water, wetlands, fauna and flora on behalf of the people of Uganda.<sup>60</sup> The utilisation of the natural resources of Uganda shall be managed in a sustainable manner. The State shall take all possible measures to prevent or minimise damage and destruction to land, air and water resources resulting from pollution or other causes.<sup>61</sup> The State shall take all practical measures to promote a good water management system at all levels.<sup>62</sup> These constitutional objectives act as a guiding principle in determining and applying the Constitution to ensure good governance.

In Article 189, provision is made for decentralisation which policy is further elaborated in the Local Government Act, 1997. The State holds in trust for the people of Uganda its natural resources including natural lakes, rivers and wetlands for the common good of all citizens.<sup>63</sup> Article 245 empowers Parliament to provide measures intended to protect and preserve the environment from abuse, pollution and degradation, and manage the environment for sustainable development. The right to a clean and health environment is provided for in Article 39 and reiterated in the National Environment Statute.<sup>64</sup>

The Constitution is the supreme law of Uganda<sup>65</sup> and provides the foundation on which other laws are built. It provides a firm basis for water and environmental laws that are people oriented.

#### 2.3.2 International Treaties

Uganda's waters are international since they form part of the Nile Basin from Lake Victoria,

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<sup>58</sup> Rule 25.

<sup>59</sup> Discussions with John Ntambirweki, Senior Lecturer, Faculty of Law, Makerere University.

<sup>60</sup> Objective XIII.

<sup>61</sup> Objective XXVII.

<sup>62</sup> Objective XXI.

<sup>63</sup> Article 237(2).

<sup>64</sup> Section 4.

<sup>65</sup> Article 2, Constitution 1995.

through all the major lakes in Uganda which feed the River Nile.<sup>66</sup> At the current level of utilisation of water for basic human consumption, international shared water resources issues may not arise. Nevertheless, mention will be made of agreements which in future may have an impact on rural water supply especially if domestic use as defined in the Water Statute is fully attained, and water is utilised for agricultural and other purposes.

### **The River Nile Agreements**

Various agreements were made during the colonial and post colonial times. The Nile Water Agreement of 1929 between Egypt and the United Kingdom sought to divide the waters of the Nile between Egypt and Sudan, and especially to allocate water to the latter for irrigation in the Gezira. It contained a clause whereby Britain undertook not to construct any irrigation or power works on the Nile or its tributaries or associated lakes in territories under its administration without the consent of Egypt, if such constructions would have the effect of reducing or delaying the water destined for Egypt.<sup>67</sup>

The Owen Falls Agreements of 30 May 1949, 5 December 1949, 5 January, 1953 between the United Kingdom and Egypt provided for the participation of Egypt in the construction of the Owen falls Dam, and the use of Lake Victoria as a storage reservoir of water for Egypt.

Many other agreements have been made since then like the *Tecconile Agreement*, 1992 which is basically a technical cooperation agreement that succeeded the *Hydromet Agreement* 1967.<sup>68</sup>

Various arguments have been raised about the applicability or otherwise of the colonial treaties that seek to limit Uganda's use of the Nile Water.<sup>69</sup> It is submitted that these issues are not of paramount concern today as far as rural water supply is concerned since the levels of water extracted make no significant impact, if any, on the Nile waters.

### **Lake Victoria**

Lake Victoria is a shared resource between Kenya, Uganda and Tanzania. Most agreements concerning this Lake are covered under the Nile agreements. The other current agreements are concerned with fisheries management, water quality control, land use and wetlands management, and industrial and municipal waste management. An example is the Lake Victoria Environment Management Project which encourages cooperation between the East African Countries in the Management of the Lake Victoria environment.<sup>70</sup> The rural communities are not the direct concern of this agreement but may benefit from cleaner surface and ground waters.

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<sup>66</sup> See Annex I, taken from the State of the Environment Report for Uganda, NEMA, 1996, p.3.

<sup>67</sup> Ntambirweki and Tibaruha, the Uganda Country Profile -Legal and Institutional Aspects, Nile Panel of Experts Meeting, Cairo, March 1999.

<sup>68</sup> Ibid.

<sup>69</sup> Ibid, see also OKIDI C.O., Legal and Policy consideration for Regional Cooperation on Lake Victoria and River Nile, IV Nile 2002 Conference Proceedings.

<sup>70</sup> Joint Project Agreement, Lake Victoria Environment Management Project, September, 1996 Schedule I; and the Tripartite Agreement on an Environmental Management Programme for Lake Victoria, August, 1994.

## 2.4 OTHER RELEVANT POLICIES

### 2.4.1 The National Environment Management Policy, 1994

The National Environment Management Policy (NEMP) seeks to address environmental issues in a holistic and integrated manner. It is the cornerstone of the country's commitment to social and economic development that is environmentally sustainable and which will bring the benefits of a better life to all. One of the key objectives of the policy is to enhance the quality of life of all people in Uganda and promote long-term, sustainable socio-economic development through sound environmental and natural resource management and use.<sup>71</sup>

Water is recognised as a major factor in the socio-economic development of Uganda. The policy objective is to sustainably manage and develop the water resources in a co-ordinated and integrated manner so as to provide water of acceptable quality for all social and economic needs. It is recommended that water resources be managed at the lowest appropriate institutional or community level, and that water resource users, particularly women, be involved in the design and implementation of water policies, programs and projects.<sup>72</sup> Surface and ground water uses should be planned on the basis of water quantity and quality, and allocations to domestic, industrial and agricultural uses should not exceed the sustainable supply.

Various strategies are adopted in the policy including the development of a National Water Action Plan, the development of local capacity for community management and maintenance of water resources, and the improvement of community awareness on the importance of hygiene. An integrated approach by relevant government agencies and NGO's is encouraged in the implementation of water conservation and protection measures. The policy promotes regional Cupertino in the development, management and equitable utilisation of shared water resources.<sup>73</sup>

The Draft National Water Policy builds on this framework.

### 2.4.2 The National Gender Policy, 1997

The aim of this policy is to guide and direct the planning, allocation and implementation of development programmes with a gender perspective. Sustainable development necessitates maximum and equal participation of both gender in economic, political, civil and socio-cultural development.<sup>74</sup> The policy emphasises the cross sectoral nature of gender and seeks to integrate them into development efforts at national, sectoral, district and local levels, and to promote the recognition of women's contributions as agents of change in the development process. The strategies adopted include ensuring gender responsive development planning at community, district and national level; and promoting a holistic and integrated approach to development planning to ensure that gender issues common to different sectors are adequately identified, analysed and addressed.<sup>75</sup>

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<sup>71</sup> p.3.

<sup>72</sup> p.12

<sup>73</sup> p.13

<sup>74</sup> National Gender Policy, Kampala, 1997, p.1

<sup>75</sup> p.6



The water sector recognises gender roles in water supply and maintenance, and hygiene promotion and builds on these roles in order to have sustainable programmes in the rural areas.

#### 2.4.3 Donor Policies

##### **Department for International Development (DFID) Uganda Country Strategy Paper, 1999**

DFID is the British government department responsible for promoting development and the reduction of poverty. The central focus of British government policy on international development is a commitment to the internationally agreed target to halve the proportion of people living in extreme poverty by the year 2015, together with the associated targets of improved standards of living. The purpose of Britain's strengthened relationship with Uganda is to contribute to sustainable improvements in the livelihoods and living conditions of poor people in Uganda. It is hoped that by 2002, access to essential resources for the poor will have improved.<sup>76</sup> poverty remains an overwhelmingly rural phenomenon and thus DFID policy is targeted at the rural areas.

Noting that Uganda faces a range of environmental stresses, including degradation of its natural resources, increasing industrial pollution and a growing lack of access to proper sanitation,<sup>77</sup> the existing portfolio of DFID activities covers support for water and sanitation which accounted for 2% of the project framework in 1997/98<sup>78</sup> and amounted to UK £400,000/= in 1998/9999.<sup>79</sup> Amongst the beneficiaries of this support were the Busoga Trust, an NGO that has helped improve the water and sanitation facilities of approximately 157,000 people across five districts.<sup>80</sup>

DFID plans to get directly involved in water and sanitation activities in the districts of Katakwi, Kumi, Apac and Lira.<sup>81</sup> Provided that Uganda remains committed to good governance and solving internal problems, DFID plans to increase resources for poverty eradication and other pro-poor activities. Programme impact areas include improved access to essential resources for the poor.<sup>82</sup> Such resources include water supply. Activities under the impact areas include strengthening national strategies for sustainable development and the sustainable management of physical and natural resources. Of particular import is the aim to assist poor people, particularly women, gain access to increased and sustainable supplies of clean water.<sup>83</sup> Accordingly, it is forecast that a total of four and a half million pound sterling will be spent on water and sanitation projects between the years 1999/2000 - 2001/02.<sup>84</sup>

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<sup>76</sup> DFID Uganda Country Strategy Paper, 1999 p.1

<sup>77</sup> p.2

<sup>78</sup> Box 1, p. 8.

<sup>79</sup> Binding Commitments, Annex 2,p. 20.

<sup>80</sup> p.10.

<sup>81</sup> Pers. Comments, Piers Vickers, DFID

<sup>82</sup> p.11.

<sup>83</sup> p. 14.

<sup>84</sup> Other plans, Annex 2,p.20

### **Danida: Strategy for Danish - Ugandan Development Co-operation, 1996**

The overall objective of bilateral co-operation with Uganda is to improve the living conditions of the poorest sections of the population. Social development will be promoted by improving the population's access to social services, concentrating in particular on the health service and on the provision of clean drinking water in rural areas.<sup>85</sup> Consequently, the current development programme lays emphasis on water supply and sanitation in rural areas. The Danish Government assigns high priority to the provision of water supply and sanitation services as a way of contributing toward a lasting improvement in the social and health regimes of the poorest population groups in recipient countries. Danida has three overall objectives in pursuing a water and sanitation strategy:

1. Provision will allow equal access to as many people as possible in poor areas.
2. Provision will promote the communities health, social and economic development, and in particular release women and children from the burden of fetching water from distant sources.
3. Provision will be financially and technically sustainable and support social development.<sup>86</sup>

It is proposed that further development co-operation should concentrate on only a few sectors, water supply being one such sector.<sup>87</sup> Currently support in the water sector is provided at the national level through assistance in drafting a national programme of action for water resources and institutional support to DWD; and at a local level through assistance to water projects in Eastern Uganda<sup>88</sup> (RUWASA and Eastern Centres). Danida also wishes to build capacity by strengthening local administration and political structures through training and education programmes as an important element of assistance to decentralization and district development.<sup>89</sup>

This would contribute to the smooth operation of the various management structures laid down in the Water Statute and Local Government Act and ensure that the units complement rather than contradict each other.

### **Official Canadian Development Assistance in Uganda**

The purpose of Canada's official development assistance programme is to support sustainable development in developing countries in order to reduce poverty and to contribute to a more secure, equitable and prosperous world.<sup>90</sup> To achieve this goal, Canada's programme concentrates on priority areas which include water and sanitation that is encompassed in the basic human needs priority area. The programme further concentrates on delivering environmentally sound infrastructure services with an emphasis on poorer groups and or capacity building.<sup>91</sup>

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<sup>85</sup> Strategy for Danish-Ugandan Development Cooperation, DANIDA, 1996, p.16

<sup>86</sup> Danida, Uganda Water Sector Programme Support Document, Kampala, October 1997, p.70.

<sup>87</sup> Danida Strategy for Uganda, supra, p. 17.

<sup>88</sup> Other plans, Annex 2, p.20

<sup>89</sup> Ibid,p.22.

<sup>90</sup> Ibid, p. 22.

<sup>91</sup> Ibid, p. 2.

CIDA contributed funds to UNICEF in 1984 for rural water projects that provided 800 pump replacements to benefit approximately 60,000 people and construction of 250 shallow wells. Further assistance was given to UNICEF in 1987 for the provision of drinking water for 640,000 people, protection of 2,545 water sources, drilling of 676 boreholes equipped with hand pumps, and training of over 1,000 pump mechanics and caretakers. This project helped improve water supply in four districts in northern Uganda and was used by the Government of Uganda as a model for national policy development for rural water supply.<sup>92</sup>

Current programmes concentrate on poverty reduction through advancing basic education, health care, democratic government and local initiatives.<sup>93</sup> Though water is not specifically mentioned, it may be considered as a project that advances social development under the fund for Local Initiatives.

### **World Bank, Uganda Strategy, 1997**

The Bank's strategy in Uganda is on economic growth and substantial poverty reduction.<sup>94</sup> Since poverty is predominantly rural, then the focus must be on rural livelihoods and areas. As a result, the World Bank Funds the Small Towns Water and Sanitation Project (STWSP) that is operated by DWD. The project seeks to support the Government's economic recovery program by extending the rehabilitation and upgrading of water supply and sanitation services to towns and rural growth centres. The objective is to improve health conditions through better water supply, alleviate poverty and improve the lot of women, and reduce environmental degradation through better waste management. The programme (STWSP) is discussed in detail under "Nature and Status of water supply and sanitation provisions".

## **2.5 ACTION PLANS**

### **2.5.1 The Poverty Eradication Action Plan (PEAP), 1997**

The PEAP is the means through which the Government of Uganda seeks to wipe out mass poverty in Uganda by reducing the percentage of the population living in absolute poverty from 66.3 percent down to less than 10 percent, and cutting the percentage of the population currently living in relative poverty from the present 86.2 percent down to 30 percent by the year 2017.<sup>95</sup>

The Plan encourages private sector and NGO involvement in the eradication of poverty, and encourages community involvement in order to strengthen accountability and local management in poverty eradication. Measures to be taken to improve the quality of life of the poor and their productivity include clean water supply. It is noted that only 33 per cent of the rural population has access to safe drinking water within 5 kilometres walking distance.<sup>96</sup> Government undertakes to facilitate the provision of better basic services to the population like clean safe water. Government will do this through, inter alia, gradually increasing the resources transferred to districts under decentralisation focusing on provisions of basic

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<sup>92</sup> Ibid, p. 11.

<sup>93</sup> Ibid, p. 18.

<sup>94</sup> World Bank, Uganda Strategy, 1997 Africa region p. 1.

<sup>95</sup> PEAP, Ministry of Planning and Economic Development, June 1997, p.1.

<sup>96</sup> Ibid, p.7

services.<sup>97</sup> Government will, in addition, collaborate with NGOs in the promotion of effective and sustainable delivery of services.

The strategy to provide water to the poor must take into account the fact that the poor live in villages which may be distances apart. Therefore the basis of the strategy shall be community based and demand driven to ensure full utilization and functionality. In order to increase the sustainability of high technology water supplies, government will continue to encourage private sector participation in undertaking services like bore-hole drilling and sale of spare parts. Communities are expected to raise funds for purchase of the spares and to remunerate the pump attendants. Districts will be (are) required to provide technical back-up support and to undertake major repairs drawing on technical expertise from DWD where necessary.<sup>98</sup>

The provisions of the PEAP re-echoed in various policies, both national and donor, and in the activities of DWD and the NGOs active in water supply and sanitation provision.

### 2.5.2 Other Action Plans

The **Water Action Plan (WAP)** was referred to while discussing the Water Statute. This plan seeks to strengthen the technical, constitutional and human resources capacity at all levels for efficient integrated water resources management. The WAP is a comprehensive plan for the investigation, use, control, prosecution, management and administration of water for the nation. The Water Policy Committee is responsible for coordinating the preparation, revision, and updating of the WAP.<sup>99</sup> The plan once approved by cabinet shall be issued by Legal notice and be binding on all persons and public authorities.<sup>100</sup>

The **National Environment Action Plan**, 1995 considers water a major factor in the socio-economic development of Uganda. Its objective for this sector is to sustainably manage and develop water resources in a co-ordinated and integrated manner so as to provide water of acceptable quality for all social and economic needs. The strategies to achieve this are through the development of local capacity for community management and maintenance of water resources, and increasing the awareness of communities on hygiene and environmental degradation.<sup>101</sup>

**Vision 2025**, notes that access to safe and clean water and proper sanitation are one of the national aspirations of Uganda.<sup>102</sup> It notes that in order to develop a society with a high quality of life, the distance to safe water should be reduced to within half a kilometre of households, and use of piped water in houses should be promoted. The communities should be trained to sustain their own health and well-being including personal hygiene and safe water management.<sup>103</sup> Women's well being would be greatly improved if these aspirations

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<sup>97</sup> Ibid, p.21

<sup>98</sup> Ibid p.38

<sup>99</sup> Section 16, Water statute, 1995.

<sup>100</sup> Section 11, Ibid.

<sup>101</sup> The National Environment Action Plan for Uganda, Ministry of Natural Resources, 1995 p.55.

<sup>102</sup> Vision 2025, Strategic framework for National Development, Vol. one, (Working Draft), MFED, February 1999, p.42.

<sup>103</sup> ibid, p.124.

were met since women are most dependent on natural resources through their daily chores like collecting water.<sup>104</sup>

*The Uganda National Plan of Action for Children*, 1992 provides for water and sanitation as a way of improving the quality and longevity of life of the children of Uganda. The various plans and visions make an input in the water sector and specifically target the rural poor as the most disadvantaged people who have the greatest need. As long as the plans are implemented and do not become "decorations on office shelves",<sup>105</sup> the rural poor will in the near future have easy access to safe water and sanitation.

### 3. NATURE AND STATUS OF CUSTOMARY WATER RIGHTS

It has been noted that the tenure and disposition of water resources in much of rural and peri-urban Africa is under the sway of traditional systems which are deeply rooted. It is increasingly apparent that custom in general, and water related customary practices in particular, are a factor to be reckoned with if development projects and programmes are to rest on a sound legal and institutional base and are to yield as a result, sustainable results.<sup>106</sup> This statement holds true for Uganda as will be discussed.

#### 3.1 CUSTOMARY WATER LAWS

Generally speaking, water in the various customs of Uganda has always been regarded as a resource to which every person should have unrestricted access. This is especially so for surface waters. A distinction is made in some cultures between surface or "free flowing" water, and underground waters which are waters extracted after an individual or a group of individuals have exerted themselves. In the latter case, access to such water may be restricted.

Uganda has fifty six indigenous communities.<sup>107</sup> It would therefore be impossible to look at the customary practices of each of these communities for the purposes of this scoping study. A discussion about the customary practices of some indigenous societies in Uganda will suffice to illustrate customary water practice.

##### 3.1.1 Bugisu

The Gisu are found in Eastern Uganda. According to Gisu culture, the community has the right to water cattle at any running or open waters. Water is considered to be a gift from God and therefore water from springs can be used by anyone. However, where wells have been dug in times of drought, a charge may be levied for labour but not for water.<sup>108</sup>

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<sup>104</sup> Ibid p. 124

<sup>105</sup> Ibid p.103.

<sup>106</sup> Lawrence C. Christy, in the forward to Mario Ramazzotti, *Readings in African Customary Water Law*, FAO, Rome, 1996.

<sup>107</sup> Article 10(a) and Third Schedule to the Constitution of the Republic of Uganda, 1995.

<sup>108</sup> Gayer C.M.A., *Report on Land Tenure in Bugisu*, Uganda Protectorate, Entebbe, 1957, p. 116.

According to J.S. La Fountaine,<sup>109</sup> a land owner in Bugisu is not supposed to prevent people from drawing water or watering their cattle at springs on his land, or close a footpath. He may sue for damage to his crops or alter the alignment of a footpath, but he may not deny access to these resources which are held to belong to the community at large.

### 3.1.2 Buganda

In Ganda culture, there was (still is) a distinction between wells set aside for human consumption,<sup>110</sup> and water for animal consumption.<sup>111</sup> Cattle had to be taken to separate watering places and so did dogs. If a dog was allowed by its owner to drink water from a well set aside for human consumption, the dog's master committed an offence and he had to dig a new well as a penalty. There was, however, no restriction to watering cattle at rivers or swamps. The Lukiiko (Parliament) could by written order, forbid the watering of cattle at any particular pond or well on being satisfied that such pond or well is required for human drinking water purposes.<sup>112</sup>

Access to water was guaranteed even after land was partitioned as mailo. The owner of mailo land (land which was partitioned to Chiefs in miles under the 1900 Buganda Agreement) is not allowed to prevent people from drawing water from waters situate on his mailo which water people have drawn for a long time before he acquired the mailo title. This water may be running waters, springs or ponds.<sup>113</sup>

Proper sanitation was encouraged at the water points for human consumption by having a keeper of wells in each village.<sup>114</sup> This is akin to the pump caretakers that exist today. Each villager was supposed to carry out maintenance work on a well when summoned by the village chief. Failure to comply with the summons attracted a fine of a goat or a calabash of beer and restriction from using the well. In addition, certain rules applied to these wells. No one was allowed to wash himself or his clothes in the well, put a sooty kettle or pot in the well, or fetch water unless his hands and legs were free from soil.

As far as the "private" wells were concerned, there was a difference in rights of access to individually dug wells for human consumption and wells/dams dug by individuals for animal consumption. If a well was dug by an individual for drinking water, anybody could draw water from that well provided that thereafter that person assisted in the maintenance of the well.<sup>115</sup> Thus, every person ab initio had free access to a drinking water well that had been dug by an individual, an illustration of the communal nature of and value attached to water for human consumption. This right could only be denied by the omission of the right holder himself and not at the instigation of the well digger without any cause.

However, in instances where an individual or group of individuals dug dams for watering cattle, they had a right to prevent others who did not assist in the digging from watering their

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<sup>109</sup> "The Gisu of Uganda", ESA-IAI, London, 1959, p.18.

<sup>110</sup> HAYDON E.S., Law and Justice in Buganda, Butterworths, London, 1960, p. 164.

<sup>111</sup> Ibid, p. 165.

<sup>112</sup> KIWANUKA & MATTHEW, Native Law of Buganda, UPPC, 1941, p. 10.

<sup>113</sup> Ibid, p. 8.

<sup>114</sup> Haydon, supra, p. 164.

<sup>115</sup> Ibid p.164.

cattle there.<sup>116</sup> This differentiation of rights, the dam diggers having rights to deny access immediately on completion of the dam unlike their drinking water well counterparts, indicates that water for human consumption was considered to be so basic and such a high priority that immediate denial would be a serious departure from customary norms.

### 3.1.3 The Karimojong

The Karimojong are a pastoral nomadic people who inhabit the north eastern part of Uganda. Cattle are a central feature of Karimojong custom and determines the ownership system in Karamoja.<sup>117</sup> The Karamojong move long distances in search of pasture for their cattle.

Water is vital to the Karamojong and no-one should deny another access to it. However, in times of severe drought, the herd that is watered first may get all the water that exists. Outsiders are expected to seek permission to water stock in the area in which the cattle keepers have settled. In instances where people have dug water holes at more permanent settlements, they may fence off the water holes.<sup>118</sup>

### 3.1.4 Lango

Amongst the Langi, grazing rights and water rights which include rights of drawing water for domestic purposes, and of watering cattle are communal to the village and are in no way allocated to individuals.<sup>119</sup> Water is obtained from a river or well and is fetched by the women and children.<sup>120</sup>

Hygiene and sanitation are important. The village must be kept clean and a specific place behind the village is set aside for sanitary purposes. Any neglect of these sanitary regulations is seriously objected to<sup>121</sup> just like the grazing and water rights are jealously guarded.<sup>122</sup>

### 3.1.5 The Sebei

Water rights in Sebei culture are dependent upon the nature of the water source and the economic inclination of the particular peoples. If the water source is natural and therefore considered to be the provision of God, such a water hole is a public resource. If, however, it is a dug step well, it is the private property of the person who dug it.<sup>123</sup>

Cattle keepers recognise the right of any stock owner to pasture, water and salt. Free flowing or standing water to them is a public resource. They make no restrictions other than a broad territoriality because anything else would destroy the herds.<sup>124</sup> Farmers, on the other hand

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<sup>116</sup> Ibid, p.165.

<sup>117</sup> MAIR LUCY, *Nomad Herding: The Karimojong*, African Societies, Cambridge University Press, 1974, p. 28.

<sup>118</sup> Ibid, p. 30.

<sup>119</sup> DRIBERG J.H. *The Lango: A Nilotic Tribe of Uganda*, London, 1923, p.171.

<sup>120</sup> Ibid p. 80.

<sup>121</sup> Ibid p. 80.

<sup>122</sup> Ibid., p.172.

<sup>123</sup> Goldschmidt Walter, *Sebei Law*, University of Carliafonia Press, 1967, p. 143.

<sup>124</sup> Ibid p. 247.

must protect their rights to continuous use of land. They must therefore fence off their lands that border established trails heading to water or salt.<sup>125</sup>

### 3.2 DISCUSSION ON PREVAILING PRACTICE

Customary practices still occur today as they did years ago. Water is still generally considered a free access commodity. Some of the beliefs and taboos related to water and sanitation are still applicable today. For instance in various places within the country ranging from Buganda in central Uganda, to Arua in North Western Uganda, people have on occasion objected to protection of a spring for fear of angering the gods who may halt water supply.<sup>126</sup>

In the area of sanitation, women in places like Teso avoid pit latrines for fear of becoming barren.<sup>127</sup> Children are an important part of the African family and have traditionally been viewed as an indicator of the man's prosperity and virility. This taboo, thus, is of great significance since a woman will always want to have yet another child to win her husband's favour.

Customary practice stresses water quality and hygiene through segregation of human and animal consumption points and communal upkeep of water sources. Ever since central government assumed roles of maintenance of law and order through its various agents community work has greatly deteriorated. People expect government to maintain water sources and carry out inspections. The provisions of the Water Statute relating to WUG, WUA, are a bid to rekindle the initial spirit with which the peoples of Uganda would maintain their resources. Among pastoralists like the Karamojong, cattle take precedence. Thus separate watering points and human hygiene are customarily of no importance. This is an issue with which field operators have to tussle today.

The actors in the water and sanitation areas have encountered custom either as a hindrance or as a facilitator of their activities. It is important to take cognisance of these cultures so that programmes are formulated around them harnessing the positive aspects and addressing the negative components with a view to achieving behavioural change. As will be realised during the discussion on the nature and status of water supply and sanitation provision, this is an element which DWD and the various agencies have had to address themselves to.

## 4. NATURE AND STATUS OF WATER SUPPLY AND SANITATION PROVISION IN UGANDA

In this section, a status report will be given of each of the actors in the water and sanitation sector. This list is by no means exhaustive of all the operators in this field but is representative of the different kinds of agencies involved in the water and sanitation sector. In Uganda, all the agencies involved in water supply concentrate on water supply for domestic purposes.

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<sup>125</sup> Ibid p. 151.

<sup>126</sup> See discussion on Nature and Status of Water Supply Post; pers. Comment, Stephen Omoit, DWD.

<sup>127</sup> Pers. Comment, Elicad Nyabeeya, EDF MPP.



#### 4.1 WATER AID

Covers 10 Districts mainly in the South and Western parts of the country. Water activities include spring protection, shallow wells with hand pumps gravity water schemes rain water harvesting, sand valley dams and drilling Boreholes (hand pumps) where necessary (mostly in places where other sources of water are lacking, this is the same reason for rain water harvesting).

Sanitation program, is equally intensive since this goes hand in hand with the water activities. Workshop/Seminars are organised to train Hygiene Educators and Sanitation promoters who move from door to door to inform the community. Community response has been positive in contribution to water sources in form of local manual labour, provision of local materials like sand, labour and to some extent money as well as constructing pit latrines, home made racks for sanitation and hygiene.

Water Aid provides materials like iron sheets, cement, hand pumps, technical labour and technical advice (what the community cannot afford). Water Aid operates in communities through implementing local partner organisations like churches or local CBDs who are trained to train the communities. Local authorities such as the local councillors are mainly used for community mobilisation and sometimes sensitisation. For purposes of sustainability, other than community contribution in local materials and labour, they also provide care takers and form water committees who must include women. Local pump and tap mechanics are trained well to make minor repairs in the absence of Water Aid; payable by the community.

Success by Water Aid has so far been great about 80% where they operate for both water and sanitation. Operating through local partners has helped Water Aid identify areas of activities according to the community's wish. The communities are sensitised prior to constructing any water source. Failure in some communities has been purely due to their own sluggishness. Women have been highly encouraged to participate along with men and children, since water affects everybody.

#### 4.2 LUTHERAN WORLD FEDERATION (LWF)

Activities used to exist in the West Nile District of Adjumani mainly in refugee camps to drill boreholes as an implementing agent of UNHCR. But now, its water project is existent in Moroto District, where drilling boreholes and constructing water ponds are the major activities. However, the community here prefers water ponds (Atapar). To them, water ponds are easily accessible for both themselves and their live stock (cattle) and causes little congestion compared to a borehole.

LWF started sanitation and health programs with very little success. This has been attributed to the cultural setup of the Karamojong who prefer littering the entrance to their Manyatta with faeces. They never had pit latrines and are not willing to comply. Latrines can only be located in the town centres. Hygiene situation in Moroto is very poor about 90% without latrines. LWF instead dropped the sanitation program and embarked on sensitisation with regards to dangers of drinking water with animals from the same water pond (Guinea worm program).

Initially, there was no community contribution since LWF went in an emergency situation to save the community from drought. However, to sustain the project, LWF trained pump mechanics to help the people. Hence, the community is expected to pay for the services. At times they contribute items like upto shs. 50,000/= for repairs, those who cannot afford contribute sheep, sorghum, goats which are later on sold and converted into cash by the care taker.

LWF also helps the community to rehabilitate their ponds through loans in forms of items like pangas and spades if they fail to raise money. Only complicated technical repairs are done by LWF still with contribution from the community. Initially, the idea of caretakers and water committees including women was introduced in order to have smooth running of the water sources. But now, LWF prefers using the existing traditional institutions (local leaders) to act as care takers. In case a borehole is sunk on someone's land, then the land owner becomes a caretaker. These institutions have proven more successful than water committees.

Land is communally owned due to the Karimojong pastoralistic nature (culture). Therefore, the community decides where a borehole should be drilled and no restrictions are attached to it. LWF only advises where necessary. The success of LWF has been in realising their target of 200 people per borehole bearing in mind the nature of settlement pattern (scattered). Water troughs have been constructed near boreholes for animals so that people do not drink from the same sources of water together with animals. It is the duty of the caretaker to ensure that animals drink from the troughs. Karamojongs give their animals first priority at the water points.

#### 4.3 UNHCR

Its activities are well known for emergency situations for instance refugee camps. Currently, their water activities are in about 8 camps. Their water sources include tank water distribution. This is very common in transit camps (emergency situation) where water from the closest river or stream is pumped into tanks, treated and then distributed by pipes to the people. Boreholes are more prominent in settlements, there are a few springs, mainly because of their accessibility and quantity.

Sanitation in these emergency areas (transit camps) are very poor bearing in mind the background of some of the refugees for example those from Southern Sudan and even their host communities in Arua, where people still prefer going to the bush. In settlements, UNHCR carries out sanitation programs through campaigns, developing infrastructure and sensitisation where people are told the advantage of using pit latrines. UNHCR helps to transport wood to the people, and they provide communal labour to construct these latrines.

In a situation of scarcity of wood, the use of slabs has been recommended although this has not yet been adopted. UNHCR at times operates, through implementing agents who are usually recognised international NGOs' to carry out water and sanitation programmes both in the camps and in the countryside. Because of the nature of emergency among refugees, they usually do not get involved in the initial stages of borehole construction or putting up any water source, especially in the transits camps. However, later on in their settlements, the community (refugees) through the help of UNHCR form a water source management committee who raise funds from users for the maintenance of their boreholes. Usually

UNHCR trains some refugees as community based water pump mechanics who do most of the repairs except the major ones.

Just like the refugee settlements, UNHCR sometimes extends the same facilities to the nationals. In this case, UNHCR in collaboration with the district water office and the local councils undertake the task of locating areas of need and where the boreholes can be drilled. The remaining task is for the district authorities and the community who provide local materials and labour.

The community's perception has always been positive since to them, they regard this as a blessing. A few instances however arise for instance in Kali-moyo district where a land owner rejected the use of his land for a borehole. This was solved by siting another nearby location.

Success of UNHCR has been to the level that they have availed water to the community upto as little as 1.5 kms walking distance and providing 200 people water per spring within the same walking distance. The Uganda standard of providing water to 300 people per borehole in a community has been revised by UNHCR to 500 people per borehole mainly because of the high population of refugees in a camp as well as the fact that a high yielding borehole is capable of supplying this population conveniently. Another advantage UNHCR thought regarding 500 people per borehole is for purposes of maintenance and its burden on the community.

#### 4.4 DIRECTORATE OF WATER DEPARTMENT (DWD)

Covers all water activities in the country. The standard water distribution is 300 people per borehole. However, it has been realised that boreholes break down more often than gravity water pipes. And yet people usually are not willing to purchase spares. In 1984, community based maintenance system was tried in Luwero and was successful.

It is the a policy of the Water Directorate for the community to maintain and repair their boreholes. DWD trains people within their communities to look after the hand pumps. They are provided with toolkits and bicycles. DWD remains with the role of rehabilitating the holes (when they are blocked) that is carrying out major repairs. Hygiene is still rated as very poor. In study in 2 sub-counties it was rated at 67% mainly because of the nature of containers used for collecting and storing water. This waste contamination or hygiene problem is smaller at community level than at household level. After sensitisation there has been some improvement in awareness regarding hygiene but a great deal has to be done. Cultural behaviour also affects sanitation. In some areas of Teso there is the belief that if women use pit latrines; they cannot give birth. This forces them to go to the nearby bushes.

Development of water sources such as springs has sometimes been hindered by the desire to protect sacred sites in a community; this behaviour exists all over the country. There is some improvement now. At times individual owners of land can be positive while a water source in his/her area, is being constructed in the area yet cases of fencing it later have been reported. The policy, however, is that, all beneficiaries should have access to that water source. District officials get involved in solving such problems.

DWD has some programmes that specifically address rural water and sanitation needs (Annex IV on Rural Safe Water Supply Service Levels as of June, 30, 1998). These include RUWASA, STWSP, RTWSP, WES, and Eastern Centres.

#### 4.4.1 Rural Water and Sanitation Program (RUWASA)

It covers 10 districts of Eastern Uganda namely Mbale Kapchorwa, Pallisa, Tororo, Iganga, Mukono, Jinja, Kamuli, Busia and Bugiri. It is part of the DWDs' project involved mainly with rural areas. RUWASA is operating a two phased project. Phase I which started in 1991 ended in 1995 covered the districts of Jinja, Mukono and Kamuli with the headquarters located in Kampala.<sup>128</sup> In phase I, RUWASA constructed and rehabilitated 2,892 Boreholes and sold 106,078 sanplats. This increase was because of a pre-condition that communities can only get boreholes after they construct their own pit latrines while obtaining sanplats from RUWASA at a subsidised cost of only 800/=.<sup>129</sup> 280 schools were also provided with free sanplats and cement for sanitation purposes.<sup>130</sup>

Management of the water sector was mainly by the Central Government.<sup>131</sup> Meanwhile RUWASA established community management systems whose members were trained even before the boreholes were sunk. The district management teams' role was to help construct water sources and cater for the sanitation sector. The district team involved the water office, health and education. This was further decentralised to sub-counties to form sub-county water and sanitation committees which in turn formed water user committees to manage their water sources, as well as undertake hygiene and sanitation activities at the water source.<sup>132</sup> The Committee comprised of 6 members (Gender Sensitive) where ½ of them should be women.<sup>133</sup>

Phase two actually commenced from May 1996-2001. It covers all the 10 districts but the strategies for the remaining 7 districts have changed from phase I to II. There is no pre-condition for sanitation but a strategy has been laid for community contribution. Unlike in Phase I, now private contractors are awarded tenders in the spirit of privatisation and decentralisation.

Before RUWASA enters a district in this Phase II project, a letter of understanding with each district is signed; this clearly stipulates their roles and responsibilities. Districts and communities are supposed to contribute towards interventions. Sanitation is addressed through sensitisation, communities are expected to appreciate sanitation even in the absence of RUWASA to ensure sustainability. The initial promotion of sanplat has now been supplemented by encouraging communities to use traditional toilets but should have doors and smeared floors.<sup>134</sup>

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<sup>128</sup> See DFID: Uganda: Sector Scoping Study Stage I report for discussion page 16 paragraph 1 and 2. See also ministry of foreign affairs - Draft Phase I project completion report - Rural water and sanitation 1991-95 page 1(1.1.) Project background.

<sup>129</sup> Ibid page 7,1st paragraph (42) Sanitation and Hygiene Education.

<sup>130</sup> Ibid page 8 paragraph 2.

<sup>131</sup> Ibid page 10 (5.2.)

<sup>132</sup> Ibid page 10(5.1).

<sup>133</sup> Ibid page 12(5.4).

<sup>134</sup> Ibid page 6 2nd paragraph below table 5.

Most communities where there is acute water shortage have little problem with contribution. However, in communities like Bugiri who are near the lake the people do not see any value in paying for clean water. Lack of payment has also been as an act of political influence, like in Pallisa and Tororo; during Campaigns, politicians pledge to pay for clean water.

#### 4.4.2 Rural Towns Water and Sanitation Programme (RTWSP)

The purpose of this programme is the improvement of the health and well being of the people in the transitional towns. Government and donors have for a long time concentrated on the big towns or rural areas leaving out the trading centres otherwise known as the rural growth centres. The rural areas have been a target of social service provision under the framework of poverty alleviation.

There are above 250 small towns in Uganda. The RTWSP follows a demand driven approach and employs a participatory approach to involve communities in determining priorities and options. Communities are encouraged to opt for technologies which they can sustain and which can meet their needs. Like all other programmes, operations and maintenance is the duty of the community.

Hygiene education and sanitation promotion to create awareness is carried out. The private sector is trained so that expertise is available for household sanitation. It has been noted that sanitation is a household responsibility and therefore the intervention means should be revisited.

#### 4.4.3 UNICEF Water and Environmental Sanitation Programme(WES)

This programme covers 34 districts. It operates on the basis of district workplans derived from the district development plan. The WES activities include gravity flow schemes, spring protection, shallow wells, boreholes and hand dug wells. Intervention in the sanitation area is through hygiene education, and building school latrines in primary schools that act as demonstration latrines to the community.

Members of the Programme Coordination Unit (PCC) at Central Government travel to districts to assist with plans, supervision and follow up. The district technical staff supervise and train sub-county extension workers, who in turn train and supervise water source caretakers, and water and sanitation committees.

UNICEF involvement in water and sanitation started in 1984 with rehabilitation and maintenance work, and water supply. It has now developed to include environmental sanitation. The community is expected to contribute towards the interventions and so is the District. Annex V and Annex VI indicate the level of Safe Water Supply in WES Districts and WES Rural Household Sanitation respectively.

#### 4.4.4 Eastern Centres

Covers 8 districts and 11 rural towns in the Eastern region of the country. Different funds are solicited for different project (Districts). It is part of RUWASA's rural areas. Water activities include piped water supply, electrical pumps boreholes which acts as the water source then water is distributed to users through pipes, and springs. Eastern Centres uses the Government

Policy guidelines that urges water users to operate under demand driven approach so that they can meet their own construction and maintenance costs that is 5% of the total cost for a standpipe construction:

- 45,000/= per spring for spring protection
- 180,000/= per borehole for hand pump construction.
- 150,000/= per private household connection

Water user groups of about 250-300 people form water and sanitation committees to man their water sources (hole system) and ensure that water is provided to them within a distance of not more than 500 metres. Maintenance contribution is realised from users paying Shs. 25/= per jerry can fetched. The District management team under the Chief Administrative Officer (CAO) and Water department then takes the technical responsibility in their respective areas. This process has so far been a success (80%) positive response from the communities mainly because of the initial mobilisation and sensitisation done in the respective districts. Earlier on communities expected government to do everything for them simply because, there were no spares, personnel, no facilitation or even poor services. Through sensitisation, communities accepted their responsibilities. Training was conducted for mechanics and sanitation promoters who make household visits, hold community meetings, as a way of informing people about good hygiene and sanitation behaviour.

Eastern Centres also provides sanplats to the people at a subsidised rate about 30% reduction so that people buy them at only 2,000/= as a way of promoting improved sanitation facilities; which can be easily maintained.

#### 4.5 ACAV

Operates in the districts of Arua, Nebbi, Kumi and Katakwi. Activities in Nebbi and Arua are rehabilitation of Boreholes. In Kumi, Katakwi new boreholes are drilled and old ones not necessarily sunk by ACAV are rehabilitated. Borehole drilling and maintenance is the main water activity in ACAV, mainly because of the project scope. Sensitisation through a mobilisation team is organised prior to drilling boreholes in an area. Community responsibilities are discussed, and they accept willingly to contribute local materials like sand, gravel, unskilled labour although at times they are slow in their contribution. The community (women) even go ahead to feed the drilling crew at some water points.

Sanitation programs are at institutional levels. ACAV, for instance, constructs improved latrines at a Church so that people may use or see them after being told their importance. They may then be inspired to have their own (copying from the institutions). ACAV also provides slabs in communal places so that people may purchase them for their homes.

Sanitation programs are mainly done by the district water office now especially in the West Nile region. The Eastern part has not yet done much. The community have always regarded these water sources as belonging to them. However, the fear in ACAV is that there is still a lot needed with regards to sensitisation. Some communities are not adequately prepared to maintain their boreholes, for instance they do not raise money readily to solve a problem. Usually ACAV has to go back and maintain the pumps. ACAV is encouraging communities to purchase their own spares availed to them through the nearest institution. They have recommended re-sensitisation.

There have been only a few land problems (ownership problems). Some influential people in the communities try to get locations near their homes for convenience purposes. Water committees and pump mechanics have been trained to care and maintain these hand pumps.

ACAV has been able to provide water to 500 people per borehole in some areas. This has failed in others mainly because, other areas get more boreholes due to their allocation, by the local authorities, the water sources and maintenance. The district water and health committees have also helped in sensitisation about guinea worm eradication programme, cholera. In Arua alone, about 60% of the population have access to clean water, Nebbi is still a big problem, partly because areas with greatest need of water are also very dry giving very low water content (technical problem).

#### 4.6 WORLD VISION

Operates in 24 districts in the country. Areas of operation are identified through field staff who get proposals from the communities where other World Vision activities exist. With the communities, World vision investigates all sources of water and the people then decide where to put boreholes, gravity schemes, shallow wells, angled wells tube wells, spring protection, valley dams, rain water harvesting tanks (plastics, cement).

World Vision goes to the communities to enable them identify their needs. It empowers them to realise their needs and resources around them; which can be utilised in the provision of clean water; together with the technical help from World Vision.

The communities are set to manage their own water sources. In Luwero, Community based maintenance systems were established in 1987-91 to manage and maintain their own boreholes. In Kiboga and Mubende, people were helped from scratch to plan and implement their own water and sanitation activities. World Vision simply gives a supportive/facilitative role.

Water source committees are established to mobilise local contribution for maintenance purposes. Training these committee is institutionalised, extension staff are facilitated to monitor these activities. The communities (Water Committees) are trained in mobilisation, managerial skills and general awareness which has risen to the level of appreciating investing in water and sanitation activities and maintaining facilities. This crew actively, gets involved in sanitation and hygiene programs.

The target of World Vision in safe water provision is 75% coverage. This has succeeded in some communities, others even beyond the percentage and others below the target percentage, probably due to population increase. Water quality is analysed using W.H.O. standard like Biological tests, chemical tests. Sources of pollution to a water source borehole are closely followed.

World Vision works in collaboration with the district planning committees to ensure equal distribution of resources, and for mutually acceptable plans, and avoid duplication of work.

#### 4.7 OXFAM

Usually work as partners or implementing agents of organisations like UNHCR. Water activities are more active in emergency situations like refugee camps in Arua, Kitgum, Adjumani, Nakivaale. Ibanda district covers their gravity water scheme outside refugee camps. In 1993 Oxfam undertook to implement water and sanitation programs on behalf of UNHCR in West Nile region and later Kitgum and Adjumani. Water sources are mainly emergency pumps from rivers and streams to store water in tanks of upto 95,000 litres (capacity) which is later treated to improve quality, the desire in this method though is quantity. It is commonly used in transit camps. Boreholes are used in real camps (settlements). Supplying upto 500 people per borehole-according to UNHCR standards; sources are shallow wells and drilling deeply.

Initially, sanitation was been so poor. About 20% of the population in Ikafe camp, Arua District went to the bush, mainly because of the peoples cultural background. Oxfam had to allocate a defecation zone to such people so that they do not contaminate nearby rivers and streams, but later on sanitation programs/campaigns were embarked on. Communal latrines were built and individuals were asked to construct theirs with the help of Oxfam.

The refugees were not asked to contribute anything in the construction state, since this was an emergency situation. When Oxfam embarked on hygiene and health education, they had to involve the committees by using their leaders, institutions like mosques, churches or any other group leadership to talk to their people. Through this Oxfam realised about 40% success against the 80% targeted success.

However, in the settlements, among the refugees Oxfam trained pump mechanics facilitated with tool kits. Care takers were picked and general community participation has been encouraged. Money is contributed among them for minor repairs and general maintenance. There was no resistance from the surrounding communities since they were partly benefiting on approximately 40 plots of land which they donated as refugee camp. Their activities were only disrupted by political insecurity.

In Ibanda, Oxfam undertakes community development programs in water and sanitation. Since this is not an emergency situation, the communities were sensitised to have their own latrines, bath shelters, dish racks, and dustbins. These campaigns in this area started from 1994 but actual construction of water sources took off in 1996. This two year sensitisation interval gave very successful results in that initial community contribution like local material (sand, stones), unskilled labour and even contributing money for transportation was highly commendable. Now as part of the sustainable development, the communities have organised water committees in every village under an umbrella of the Parish Committee. Every household contributes upto 1,000/= for repairs on monthly basis which is put in an account, and at least 100/= where there is a break down.

Community based health care program (Oxfam) is used to disseminate Hygiene and sanitation with the help of local leaders. Upto 80% good sanitation behaviour has been achieved. However, in Kagoro Parish where the people seemed more aware, Oxfam simply went in and tapped water to the community without prior sensitisation. The project almost collapsed. There was no maintenance, or community participation. Oxfam went back and



used sensitisation and community mobilisation/responsibility to recover the project. And all is well now.

#### 4.8 EUROPEAN DEVELOPMENT FUND PROGRAMME

The European Development Fund Micro-Project Programme (EDFMPP) runs a gravity water and sanitation programme as one of its activities. The programme is primarily funded by the European Development Fund under the auspices of the Lome IV Convention. Additional funding has been committed by the Netherlands Development Organisation (SNV), the Government of Uganda and the benefiting districts. The Programme duration is five years running from July 1998 to June 2003. The benefiting districts are Kotido, Moroto, Arua, Nebbi, Moyo, Kabarole, Bundibugyo, Kasese and Rukungiri.

The objectives of the Programme include provision of safe and clean water and improvement of sanitation through development of gravity flow schemes (GFS) and provision of affordable sanitation facilities. Where a GFS is not feasible, other technologies will be promoted under a research oriented approach. Examples of these technologies include solar powered or windmill driven pumps, infiltration galleries, shallow well development and rain harvesting. The programme aims at building capacity at the national, district, sub-county and community levels to ensure maintenance and sustainability of the interventions.

Implementation of the Programme is to be through districts with the involvement of the communities, the private sector and NGOs in line with government policy of decentralisation and privatisation. The success of the programme will therefore depend on the Districts commitment, management and proper utilization of the funds. The Districts have already prepared workplans in conjunction with EDF MPP and are to give a 4 percent annual commitment towards the programme. SNV provides technical staff to support the programme in two of the three blocs that is West Nile region and Western region. DWD supports the Karamoja bloc.

The Programme is managed by a Programme management Committee at national level composed of DWD, SNV, EDF MPP, Ministry of Local Government, the National Authorising officer and the European Union delegate. At district level, it is managed by a district management committee chaired by the Chief Administrative Officer. Once the projects have taken off they shall be managed by the associations established under the Water Statute, 1995. Land issues are supposed to be resolved locally before the project commences. This is a condition precedent. 20 percent of the programme finance is allocated to sanitation.

The overall programme target is to serve 240,000 people with safe water and improved standards of living by constructing 50 gravity flow schemes and applying other appropriate technologies identified. The sanitation within the project areas would also have been improved. Hygiene education and sanitation promotion will vary from area to area. In some areas, schools will be facilitated with pit latrines, while in others like Moyo which has collapsing soils, demonstration latrines will be built.

#### 4.9 ACTION AID

The Mission of Action Aid is to help raise the standard of living of the poor and improve on peoples lives in terms of water and sanitation. Action Aid activities first started as a relief agency in Mityana district, then progressed to development work. Today the organisation is active in seven districts scattered all over the country.

Water takes 50% of the Action Aid budget. The Organisation adopts a demand driven approach. The communities identify their major problems and approach Action Aid, who identifies the best technique for water supply taking into account the geographical strata and the means and culture of the community. The Community get involved in the particular intervention by providing labour, materials, and funds. Techniques adopted include hand pumps, protected springs and valley tanks. Valley tanks have been successful in some districts. However, in predominantly, pastoral areas like Katakwi district, valley tanks are not feasible as safe water supplies since they will be contaminated by cattle that are highly valued.

Water committees that take gender roles into account are formed wherever a water source has been improved. A caretaker is identified and charged with the primary responsibility of maintaining the water source. A surcharge is levied on each household for operations and maintenance purposes. The treasurer in a water committee is usually a woman. Cultural hindrances to safe water supply have been overcome with time. In Mityana and Mubende districts, there was resistance to protection of springs which was viewed as desecrating traditional beliefs. A number of exchange visits lead the communities to change their attitudes.

### **5. IMPACT OF WATER LAW/RIGHTS ON WATER SUPPLY AND SANITATION PROVISION FOR THE RURAL POOR**

The impact of the law on water supply and sanitation provision has been alluded to throughout the preceding discussions especially in the discussion on policy and law. The purpose of this section, is to highlight the enabling conditions and the constraints which will form the basis of the subsequent recommendations.

#### 5.1 ENABLING CONDITIONS

The Government of Uganda has through its laws, policies and action plans demonstrated commitment to water resources management. The Constitution of the Republic of Uganda ensures that the State and local government hold natural resources in trust for the people of Uganda. The Constitution urges the passing of progressive legislation that will better effect its provisions.

Various progressive laws have been made as earlier discussed. The Water Statute with its emphasis on water for domestic use is one such law. It makes specific provision for rural livelihoods and establishes water and sanitation management structures to ensure operation and maintenance and general sustainability of safe water sources. The Water Policy Committee through its recommendations and through the Water Action Plan sets the sector strategies and priorities, and oversees the realisation of those priorities.

The environmental framework legislation, the National Environment Statute, makes provision for management of water resources and encourages integrated planning. The decentralisation policy that fosters participation at the sub-national and community levels encourages rural development through the Local Government Act. The Land Act, 1998 recognises communal facilities and discourages alienating customary lands if such alienation is in contravention of the traditions of the community in question (see detailed discussion post).

It is important to regard these laws as complementing each other in order to derive the greatest benefit from them. There is a need to interpret the laws imaginatively and flexibly bearing in mind the objectives to be attained.

The various policies that encourage integration and target oriented action plans are a positive contribution to this sector. The NEMP that encourages integrated planning to ensure sound environment management and the NEAP that establishes objectives and strategies to attain this in the water sector are a case in point. The UNPAC that targets children who are most vulnerable and the gender policy that urges the recognition of the role of women contribute to the advancement of rural populations. The Draft Water Policy that makes rural water supply and sanitation provision a priority and the WAP that seeks to attain this will go along way in making the dream become a reality.

The desire to eradicate poverty through the PEAP, Vision 2025 and donor policies, target basic human needs therefore making water supply and sanitation provision a high priority issue. In Uganda, the issues that arise in water supply are more issues of management than scarcity of water resources due to the abundant water resources that Uganda has.

Government commitment and encouragement of private sector and NGO participation and community initiatives is to be commended. The various laws, policies and action plans contain commendable aspirations for water supply and sanitation provision for the rural population if these various documents are effected.

## 5.2 CONSTRAINTS

As referred to previously, the policy of the water sector is to respond to demand driven initiatives of communities. If the communities are not aware of the policies and laws applicable, and the benefits that they can derive there from, then there can be no demand. Ignorance, therefore acts as a serious constraint albeit one that can be quickly solved.

A more serious problem is institutional conflicts that could arise at various levels, national, district and community. At the national level, conflicts may arise between DWD and NEMA concerning competences and the water sector.

Sanitation has traditionally been within the mandate of the Ministry of Health who have until recently had higher priorities thus DWD's participation in the area. Furthermore lack of adequate sanitation impacts negatively on any advances made in safe water provision. DWD therefore has a legitimate interest in health provision. The Ministry of Health is now reviewing its laws and policies with a view to formulating an environmental sanitation policy

and an environmental health bill. The likelihood of conflict thus arises if Ministry of Health views DWD as trespasser instead of an ally in the advancement of good sanitation provision.

The districts may conflict with Central Government, the latter attempting to guide the former who mistakes the guidance for interference and vice versa. Even within the districts, conflicts may arise between the village and parish councils and the Water User Groups, Committees and Associations if roles are not clearly understood and appreciated. It is therefore important for each institution to have a clear understanding of their mandates and look at the water sector as an integral part of a whole to which each of them make a valuable contribution. Short of this, administration of the sector and delivery of service will be affected.

Sanitation, though referred to a number of times, is secondary to water supply which is seen as a strategic and economic interest. Sanitation is therefore sidelined and not given due consideration. It is necessary to achieve a decent balance between water supply and sanitation provision.

The decentralisation policy has meant that water services are to be managed by the districts. The policy was effected without any interim measures which has resulted in many districts lacking technical and managerial capabilities. Consequently, the sector activities in the district suffer. The district priorities may be different from the community priorities especially with the high level of political interference at district and sub-county level.

Some cultural beliefs and practices hinder progress in this area. Perceiving water as a free access good may make it more difficult for a person to pay for water services or may limit the amount of money that a person spends on water. Taboos that lead to poor sanitary practices and resistance to safer water supply systems may be difficult to change. Behavioural change is a slow, tedious process that requires a lot of patience and diligence on the part of the change agent.

Commercialisation of the water sector as encouraged under the Water Statute and privatisation policy may mean that without donor and government support, no private company may be interested in investing in the rural water and sanitation sector which would be viewed as a high risk, low returns venture.

Finally, corruption at all levels would mean that funds, would be diverted and services not adequately provided or maintained.

## **6. CONCLUSIONS AND RECOMMENDATIONS**

Having discussed the law, the enabling conditions, and constraints in water supply and sanitation provision for the rural poor, it is recommended that the enabling conditions be strengthened and the constraints redressed in order to realise 100 per cent safe water supply and sanitation provision in the countryside.

Public awareness on water and sanitation laws and policies, and related laws and policies should be encouraged. Through this the populace would know their rights, duties and expectations and be able to play a more active role in the project cycle.

The co-ordination of the various institutions should be improved and/or strengthened so that they function as a team aiming for the same goal. Similarly, the laws and policies should be harmonised so that possible areas of conflict are avoided and inadequacies or ambiguities addressed.

A comprehensive sanitation policy and law should be formulated that complements the efforts made to address sanitation issues within the water sector. This will ensure that sanitation is given the attention that it deserves and is dealt with at household level instead of continuously being viewed as a community issue.

Capacity building initiatives should be encouraged at all levels in order to improve efficiency and productivity. Likewise a campaign to cause behavioural change and alter cultural perceptions should be launched. The anti-corruption campaign should be strengthened so that public officials are deterred from dipping into the public coffers.

The monitoring and supervision aspects of water resource management should be strengthened so that the sector is constantly evaluated and imbalances redressed as they arise.

Further research in this field is encouraged to provide more information and deeper insight into this highly unresearched area.

Government should retain its level of commitment to the provision of safe water and sanitation as one of the priority areas in order to meet basic human needs. This commitment should be reflected in efforts to effect the various laws, policies and plans that seek to improve the performance of the water and sanitation sector.

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**C : Consultees**

	<b>Name of person</b>	<b>Designation</b>	<b>Organisation</b>
1.	Monica kunuhira	Programme coordinator	WATER AID
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3.	Bill fellows	Chief, wes programme	UNICEF
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5.	Daudi bikaba	Programme engineer	OXFAM
6.	Elisha mutyaba	Water and sanitation officer	WORLD VISION
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8.	Andrea berlofffa	Project coordinator	ACAV
9.	Joseph okuni/julianne nabatanzi	Monitoring section	RUWASA
10.	Enid kansiime	Monitoring evaluation officer	EASTERN CENTRES
11.	Moses mayende	Technical coordinator, water	ACTION AID - UGANDA
12.	Elicad elly nyabeeya	Operations coordinator	EDF-MPP
13.	Piers vickers	Engineering country advisor	DFID
14.	Ephraim kisémbó	Project coordinator (stws)	DWD
15.	Sam mutono	Programme officer	DANIDA
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18.	John ntambirweki	Senior lecturer, law	MUK
19.	Patrick o. Kahangire	Director	DWD
20.			WORLD BANK
21.			UNDP
22.			MUIENR
23.			NEMA