



# **UGANDA: RISK/OPPORTUNITY MAPPING STUDY ON INTEGRITY AND ACCOUNTABILITY IN THE WATER SUPPLY AND SANITATION SECTOR**

**Main Report, August 2009**



## ACRONYMS AND ABBREVIATIONS

ACCU	Anti Corruption Coalition Uganda
AfDB	African Development Bank
AGO	Accountant General's Office
AO	Accounting Officer
APRM	African Peer Review Mechanism
APWO	Association of Private Water Operators
AG	Auditor General
BADEA	Arab Bank for Economic Development in Africa
BFP	Budget Framework Paper
BOQ	Bills of Quantities
CAO	Chief Administrative Officer
CC	Contracts Committee
CFO	Chief Finance Officer
CIA	Chief Internal Auditor
CID	Criminal Investigations Directorate
CRC	Citizen Report Card
CIFA	Country Integrated Fiduciary Assessment
COA	Chart of Accounts
COSASE	Standing Committee on Commissions, Statutory Authorities and State Enterprises
CPI	Corruption Perception Index
CSO	Civil Society Organization
DANIDA	Danish International Development Agency
DD	Direct Debit
DDP	District Development Plan
DE	District Engineer
DEC	District Executive Committee
DEI	Directorate of Ethics and Integrity
DP	Development Partner
DPP	Director of Public Prosecutions
DPU	District Planning Unit
DWD	Directorate of Water Development
DWO	District Water Officer
DWRM	Directorate of Water Resources Management
DWSCC	District Water and Sanitation Coordination Committee
DWSCG	District Water and Sanitation Conditional Grant
EE	Engineer's Estimate
EFMP	Economic and Financial Management Program
ESAAMLG	East and Southern African Anti-Money Laundering Group
EU	European Union
FDS	Fiscal Decentralization Strategy
FINMAP	Financial Management and Accountability Program
FY	Financial Year
GOU	Government of Uganda
GCR	Global Corruption Report
GGSSWG	Good Governance Sub Sector Working Group
GTZ	German Technical Cooperation
IA	Internal Audit
IEC	Information Education Communication
IG	Inspectorate of Government
IGG	Inspector General of Government
IPFs	Indicative Planning Figures

IRWS	Integrated Rural Water and Sanitation
JICA	Japanese International Cooperation Agency
JPF	Joint Partnership Fund
JSR	Joint Sector Review
JWSSPS	Joint Water and Sanitation Sector Program Support
LG	Local Government
LGBC	Local Government Budget Committee
LGFC	Local Government Finance Commission
LGDP	Local Governments Development Program
LGFAM	Local Governments Financial and Accounting Monitoring
LGFARs	Local Governments Financial and Accounting Regulations
LGAC	Local Government Accounts Committee
LGPAC	Local Government Public Accounts Committee
LGPFM	Local Government Public Financial Management
LGROC	Local Government Resources and Operations Committee
LGSIP	Local Government Sector Investment Plan
LOGICS	Local Government Information and Communication System
MAAIF	Ministry of Agriculture, Animal Industry and Fisheries
MDAs	Ministries, Departments and Agencies
MDGs	Millennium Development Goals
M&E	Monitoring and Evaluation
MGLSD	Ministry of Gender, Labour and Social Development
MOES	Ministry of Education and Sports
MOFPED	Ministry of Finance, Planning and Economic Development
MOH	Ministry of Health
MOLG	Ministry of Local Government
MOU	Memorandum of Understanding
MTBF	Medium Term Budget Framework
MTEF	Medium Term Expenditure Framework
MWE	Ministry of Water and Environment
NEPAD	New Partnership for Africa's Development
NDP	National Development Plan
NIS	National Integrity Survey
NGO	Non-Governmental Organization
NRW	Non-Revenue Water
NWSC	National Water and Sewerage Corporation
OAG	Office of the Auditor General
OECD-DAC	Organization for Economic Cooperation and Development - Development Assistance Committee
PAC	Public Accounts Committee
PAF	Poverty Action Fund
PCA	Panama Canal Authority
PCIC	Per Capita Investment Cost
PDU	Procurement and Disposal Unit
PEAP	Poverty Eradication Action Plan
PEMCOM	Public Expenditure Management Committee
PFM	Public Financial Management
PIC	Project Implementation Committee
PP	Public Procurement Form
PPD	Policy and Planning Department
PPU	Policy and Planning Unit
PPDA	Public Procurement and Disposal of Public Assets Authority
PRSC	Poverty Reduction Support Credit
PRSP	Poverty Reduction Strategy Plan

PSO	Private Sector Operator
PUB	Public Board of Singapore
RGC	Rural Growth Centre
ROI	Return on Investment
RPF	Request for Proposals Form
RUWAS	Reform of Urban Water and Sanitation
RWS	Rural Water Sector
RWSD	Rural Water and Sanitation Department
RWSS	Rural Water Supply and Sanitation
SADC	Southern African Development Community
SDU	Strengthening Decentralisation in Uganda
SFTT	Sector Finance Thematic Team
SIM	Sector Investment Model
SIP	Strategic Investment Plan
ST	Small Town
SWAp	Sector Wide Approach
SWG	Sector Working Group
TC	Town Clerk
TEC	Technical Evaluation Committee
TOR	Terms of Reference
TI	Transparency International
TSU	Technical Support Unit
UENO	Uganda Ethics Network Outreach
UDN	Uganda Debt Network
UNDP	United Nations Development Program
UGX	Uganda Shillings
ULGA	Uganda Local Governments Association
UN	United Nations
UNCaC	United Nations Convention against Corruption
UNICEF	United Nations Children's Fund
UJAS	Uganda Joint Assistance Strategy
UWASNET	Uganda Water and Sanitation Network
UWO&MG	Urban Water Operation and Maintenance Grant
UWS	Urban Water Sector
UWSD	Urban Water and Sanitation Department
UWSS	Urban Water Supply and Sanitation
VfM	Value for Money
WDS	Water Development Scheme
WESWG	Water and Environment Sector Working Group
WfP	Water for Production
WPC	Water Policy Committee
WRM	Water Resources Management
WSC	Water and Sanitation Committee
WSDF	Water Supply Development Facility
WSP-AF	Water and Sanitation Program - Africa
WSS	Water and Sanitation Sector
WSSWG	Water and Sanitation Sector Working Group
WSC	Water and Sanitation Committee
WTSD	Works & Technical Services Department
WUC	Water Users Committee

## GLOSSARY

Administrative corruption	Corruption that alters the implementation of policies, such as getting a license even if you do not qualify for it.
Basket funding	Aid money flowing from a joint development partners' account, kept separate from other funding for the same (sub-)sectors. Transfers are not made through the government systems and in effect basket funding is a collection of projects. The Joint Partnership Fund (JPF) is an example in the water sector of basket funding using on-budget project modality.
Bribery	The offering, promising, giving, accepting or soliciting of an advantage as an inducement for an action which is illegal, unethical or a breach of trust. Inducements can take the form of gifts, loans, fees, rewards or other advantages (taxes, services, donations, etc.)
Corruption	The abuse of entrusted power for private gain. Corruption can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs.
Development partner	Bilateral, multilateral and international organizations and agencies providing support to Uganda.
(Earmarked) sector budget support	Financial support channeled through the national budget that is notionally earmarked to a specific sector or sub-sector.  Transfers are made through government systems. In the water and sanitation sector, earmarked sector budget support includes support via the Consolidated Fund and the Poverty Action Fund (PAF) to the District Water and Sanitation Conditional Grants and also to the Ministry of Water and Environment at central government level. Earmarked sector budget support and sector budget support are the same for the water, health and education sectors as all sector expenditure is under the PAF.
Embezzlement	When a person holding office in an institution, organization or company dishonestly and illegally appropriates, uses or traffics the funds and goods they have been entrusted with for personal enrichment or other activities.
Fraud	To cheat. The act of intentionally deceiving someone in order to gain an unfair or illegal advantage (financial, political or otherwise). Countries consider such offences to be criminal or a violation of civil law.
Grand corruption	Acts committed at a high level of government that distort

	policies or the central functioning of the state, enabling leaders to benefit at the expense of the public good.
General budget support	Financial support given directly to the government budget, with no earmarking of money but accompanied by dialogue with the government around the implementation of the Poverty Eradication Action Plan (PEAP).
Nepotism	Form of favoritism based on acquaintances and familiar relationships whereby someone in an official position exploits his or her power and authority to provide a job or favor to a family member or friend, even though he or she may not be qualified or deserving.
Non-revenue water	Water that has been produced and is "lost" before it reaches the customer. Losses can be real losses (through leaks, sometimes also referred to as physical losses) or apparent losses (for example through theft or metering inaccuracies).
On-budget aid	<p>Aid that is included in the Medium Term Expenditure Framework (MTEF) and presented in the government's budget estimate books. This includes aid that flows through government systems (such as general, sector and PAF budget support), as well as other program aid and projects that are reported to government and that the Ministry of Finance, Planning and Economic Development (MoFPED) considers should be included in the MTEF and the official budget presented to Parliament. A second category of on-budget aid includes Technical Assistance (TA) and basket funds that support government activities and institutions whose budgets are included in the MTEF and official estimate books. On-budget aid falls within the sector ceiling.</p>
Petty corruption	Everyday abuse of entrusted power by low- and mid-level public officials in their interactions with ordinary citizens, who often are trying to access basic goods or services in places like hospitals, schools, police departments and other agencies.
Political corruption	Any contribution, made in cash or in kind, to support a political cause. Examples include gifts of property or services, advertising or promotional activities endorsing a political party, and the purchase of tickets to fundraising events.
Poverty Action Fund	<p>Established by the government in 1998 under the MTEF, the PAF is a virtual ring-fenced fund aimed at protecting resources for key poverty-reducing areas including water, health, education and rural infrastructure. Initially it was made up of debt relief savings with additional support from development partners and the government.</p>

Project support	Project support refers to assistance that is not channeled through the government systems but which can be on-budget (i.e. within the ceiling) or off-budget (i.e. outside the ceiling).
Sector Working Group	SWG comprises stakeholders from government institutions within a sector, civil society organizations and development partners. SWGs meet to agree on sector budget submissions and new projects proposed for the sector as well as to review sector performance and to deliberate on key sectoral policies.
The Medium Term Expenditure Framework	The MTEF is a three-year rolling budget structure used to guide public-sector resource allocation, including aid. At the beginning of the budget process, sectors are provided with medium-term resource ceilings, which, in aggregate, are consistent with the achievement of macroeconomic objectives. Sector working groups allocate these ceilings to institutions within the sector over the medium term, and consistent with the achievement of sector policy objectives. These allocations are listed in the budget framework paper, which represents the government's medium term budget strategy. The first year of the MTEF forms the basis of the annual budget allocations, which are voted by Parliament.
Undertaking	Strategic actions agreed on in the Joint Sector Review to be undertaken by the sector, ideally within a 12-month period (in time for the subsequent JSR).
WASH Cluster	Group of mainly humanitarian NGOs working in north and north-eastern Uganda coordinated by UNICEF.

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## TABLE OF CONTENTS

CHAPTER 1. OVERVIEW AND BACKGROUND TO THE STUDY .....	1
1.1 Objectives .....	2
1.2 Structure of the Report .....	2
1.3 Methodology .....	3
1.4 Scope .....	3
1.5 Definition of Key Concepts .....	3
1.5.1 Governance .....	4
1.5.2 Corruption .....	4
1.5.3 Integrity .....	5

CHAPTER 2. THE POLITICAL ECONOMY OF CORRUPTION AND THE ANTI-CORRUPTION LANDSCAPE IN UGANDA .....	6
2.1 Overview of Corruption in Uganda .....	6
2.2 Public Perceptions of Corruption .....	7
2.3 Political Economy of Corruption in Uganda: A Snapshot .....	8
2.4 The Anti-corruption Institutional Framework.....	9
2.5 The Challenges .....	9
2.6 Policy and Legal Framework (National, Regional and International) .....	10
2.7 Challenges .....	10
CHAPTER 3. OVERVIEW OF THE WATER SECTOR IN UGANDA.....	12
3.1 Key Institutions .....	12
3.2 Sector Coordination .....	13
3.3 Key Policies, Laws .....	13
3.4 Challenges .....	14
3.5 Water Sector Regulation.....	14
CHAPTER 4. ASSESSMENT OF THE CORRUPTION RISKS AND OPPORTUNITIES IN THE WATER SECTOR .....	18
4.1 Key Corruption Concerns/Opportunities in the Water Sector .....	18
4.2 Global Corruption Risks .....	18
4.2.1 Global Corruption Report 2008 .....	18
4.2.2 Sourcebook on Deterring Corruption and Improving Governance in the Urban Water Supply & Sanitation Sector .....	21
4.3 Regional Corruption Risks.....	23
4.4 Ugandan Water Sector Corruption Risks/Hotspots .....	24
4.4.1 Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation.....	24
4.4.2 Fiduciary Risk Assessment for the Water and Sanitation Sector .....	27
4.5 Analysis of the Key Corruption Hotspots in the Uganda Water Sector .....	32
4.5.1 Procurement .....	32
4.5.2 Political Interference .....	38
4.5.3 Water Connections.....	39
4.5.4 Abuse of Office and Embezzlement.....	40
4.5.5 Reallocation of Conditional Grants.....	41
4.5.6 Poor Budgeting .....	41
4.6 Causes of Corruption .....	42
4.6.1 Inadequate Staffing .....	42
4.6.2 Poor Terms and Conditions of Service.....	42
4.6.3 Financial Limitations .....	42
4.6.4 Decentralization .....	43
4.6.5 Weak Civil Society .....	44
4.6.6 Inadequate Technical and Institutional Capacity of Private Sector .....	45
4.7 Mapping of the Anti-corruption Measures .....	45
4.7.1 Internal Anti-corruption Measures .....	45
4.7.2 External Anti-Corruption Measures .....	53
CHAPTER 5. RECOMMENDATIONS .....	60
5.1 Political Leadership .....	60
5.2 Set Up an Independent Regulator .....	60
5.3 Enforce Ministry of Water and Environment Sectoral Specific Schedules and Guidelines .....	61
5.4 Monitoring and Evaluation .....	61

5.5 Contract Periods.....	61
5.6 Use of Admeasurement Form of Contracts .....	61
5.7 Effective Internal Audit .....	62
5.8 Capacity Building for District Officials and Private Operators .....	62
5.9 Strengthen Capacity of Civil Society and the Media .....	62
5.10 Use of Client Charters .....	62
5.11 Codes of Conduct .....	63
5.12 Integrity Pacts .....	63
5.13 Inclusion of Priority Actions in the Budget Framework Paper .....	63
5.14 Access to Information .....	64
5.15 Improved Budgeting .....	65
5.16 Establish the Right to Water.....	65
5.17 Guidelines on Costing of Water Facilities .....	65
5.18 Linkage to Oversight Agencies and Policies.....	65
5.19 Strengthen NWSC’s Corporate Governance Including the Internal Audit Function .....	66
5.20 Introduce Sanctions by Development Partners for Non-compliance with Anti-corruption Undertakings .....	66
6.0 REFERENCES .....	67
LIST OF ANNEXES.....	70
Annex 1. List of Institutions Consulted.....	70
Annex 2. The Anti-corruption Landscape in Uganda .....	71
Annex 3. Overview of the Water Sector in Uganda.....	83
Annex 4. Golden Indicators of the Water Sector .....	93
Annex 5. MWE Action Plan Progress in Implementation .....	94
Annex 6. Corruption Risk Map for the WSS Sector and a Prioritized Anti- corruption Action Plan.....	97
Annex 7. Client Charter Format .....	107
Annex 8. Key Websites .....	108

## **TABLES AND FIGURES**

Table 1. Uganda’s Scores on the Transparency International’s Corruption Perception Index.....	6
Table 2. National, Regional, International Policies and Laws.....	10
Table 3. Strengths, Weaknesses, Opportunities and Threats Associated with Regulation by Contract.....	16
Table 4. Corruption and Sector Performance Indicators .....	21
Table 5. Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation.....	26
Table 6. Action Plan for the Fiduciary Risk Assessment for the Water and Sanitation Sector .....	30
Table 7. Types of Corruption and the Procurement Process .....	34
Table 8. Corruption Hotspots and the Procurement Process at Local Government Level.....	35

Table 9. Medium Term Expenditure in Allocation (UGX Billions) .....	43
Table 10. Medium Term Expenditure Allocations (Sector Share %)	43
Table 11. Example of a Community Score Card for Sikanusu .....	50
Table 12. Example of Service Providers Self-assessment Card for Sikanusu.....	51
Figure 1. Corruption in Procuring Suppliers and Contractors.....	33
Figure 2. Possible Corruption Instances in the Procurement Cycle .....	37
Box 1. Anti-corruption Institutions in Uganda.....	9
Box 2. Water Sector Coordination Structures .....	13
Box 3. Key Water Sector Legislation in Uganda .....	13
Box 4. Corruption Interaction .....	19
Box 5. Case that Typifies the Problem Faced by Some When Trying to Get Connected to the Water Grid in Uganda.....	40
Box 6. Issues in the Ministry of Water and Environment Action Plan .....	46

## **CHAPTER 1. OVERVIEW AND BACKGROUND TO THE STUDY**

Today more than 1 billion people live with inadequate access to safe drinking water with dramatic consequences for lives, livelihood and development. One of the causes of this crisis, according to Transparency International (TI), is poor governance manifested through dysfunctional institutions, poor financial management, weak capacity for citizens to demand change, low accountability, and outright corruption.<sup>1</sup>

In Uganda, access to improved water supplies in rural areas stands at 63% but includes huge regional disparities.<sup>2</sup> Access ranges from as low as 12% in Kaabong in north-eastern Uganda to more than 90% in Kabale in south-western Uganda. Approximately half of the country's districts are still below the national average of 63%. In 16% of sub-counties (approximately 130) access is below 39%. The functionality<sup>3</sup> of improved rural water supplies currently stands at 82%.<sup>4</sup> In urban areas, access to safe water stands at 61%. This breaks down to 72% in large towns, which are under the National Water and Sewerage Corporation (NWSC), while for the small towns it is 46%. Access to safe water in the 160 small towns (town councils and town boards) varies from below 5% to above 90%.<sup>5</sup>

Several studies, discussed in Chapter 4, show that poor governance is a factor in the low water coverage in Uganda. The figures above also highlight the need to address issues of access and fairness. This can only be done through transparent, accountable and non-discriminatory policies and institutions which are the basic tenets of good governance as discussed in Chapter 2. The central premise of this study, therefore, is that the water and sanitation (WSS) sector needs to enhance good governance and accountability in order to improve efficiency and effectiveness in water management to ensure that lives and livelihoods are not threatened.

The Ministry of Water and Environment (MWE) acknowledges that "good governance is key to ensuring that services reach the intended population particularly the poor who have less access to services and less influence to demand them. Resources are never shared equally among people but good governance can help ensure a more equitable distribution."<sup>6</sup> As the MWE report states, the existence of bad governance and corruption means that funds which could have been used to provide poor people with water and sanitation services are leaking out of government budgets.<sup>7</sup>

To improve governance in the sector, the government commissions regular value-for-money and tracking studies, and a multi-stakeholder Good Governance Sub Sector Working Group (GGSSWG) has been established within the ministry

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<sup>1</sup> Transparency International. Global Corruption Report 2008: Corruption in the Water Sector.

<sup>2</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, ii.

<sup>3</sup> Percentage of improved water sources that are functional at time of spot-check (rural water supply), or ratio of actual hours of water supply to the required hours of supply (urban water supply).

<sup>4</sup> Ibid pii.

<sup>5</sup> Ibid pii.

<sup>6</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 11.

<sup>7</sup> Ibid p11.

to follow up on the studies' recommendations. An action plan on anti-corruption measures for improving transparency and accountability has also been developed. The action plan is found in Annex 5 of this study.

The action plan is an undertaking by the Water and Sanitation Sector Working Group (WSSWG) agreed at the Joint Sector Review (JSR) meeting in October 2007.<sup>8</sup> The action plan requires improvement of the procurement and contract management processes and investigation of the unit cost increase in water service delivery. The GGSSWG is responsible for rolling out this action plan. In addition, issues related to good governance are regularly discussed during JSR meetings and, in recent years, civil society is increasingly getting involved in anti-corruption activities in the sector.

The WSS sector, however, still faces challenges such as following up on the above initiatives, and bringing other relevant actors on board. To address some of these challenges, the MWE, in partnership with the Water and Sanitation Program Uganda under the World Bank, has commissioned the present study to document ongoing processes to strengthen integrity and accountability in the sector and to identify institutional bottlenecks. It is envisioned that this study will provide a framework to facilitate country dialogue and action around improving integrity and accountability in the water sector in Uganda.

## **1.1 Objectives**

This study is underpinned by two main objectives:

- (i) to advocate for, build understanding, and stimulate action by concerned people and groups to improve transparency and accountability in the water sector in Uganda; and
- (ii) to share experiences and lessons learnt in the area of improved efficiency and effectiveness of water management in an effort to meet the Millennium Development Goals (MDG's) and Poverty Eradication Action Plan (PEAP) targets.<sup>9</sup>

This study will be complemented by the findings of an ongoing baseline survey on water integrity in Uganda.<sup>10</sup> The findings of both the study and the survey will be discussed during a national dissemination workshop and serve as a basis for a revised action plan to improve transparency and accountability in the water sector.

## **1.2 Structure of the Report**

The study is made up of five chapters. Chapter 1 is the introduction. It lays out the purpose of the study and outlines the principle objectives. Chapter 2 delves into the anti-corruption landscape in Uganda. In the chapter, questions relating

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<sup>8</sup> The Water and Sanitation Joint Sector Review held in October 2007.

<sup>9</sup> The third Government of Uganda Poverty Eradication Action Plan (PEAP) ran from 2004-2008 and is due to be replaced by the National Development Plan (NDP).

<sup>10</sup> This baseline survey on water integrity in Uganda seeks to establish how water consumers and providers experience integrity in the provision of water. The baseline is countrywide and covers rural and urban areas. The Water Integrity Network is funding this study.

to the political economy of corruption in Uganda and the extent to which political patronage contributes to corruption are explored. The national, regional and international institutional and legal frameworks to fight corruption are also examined. The water sector is then located in this set up and the study determines whether the sector is aligned with these frameworks. Key anti-corruption players are named as well.

Chapter 3 provides an overview of the water sector and outlines sector institutions, policies and laws including their strengths and weaknesses, and anti-corruption measures undertaken.

Chapter 4 presents the findings of the key corruption concerns, risks and opportunities in the sector, including reference to anti-corruption international best practice. Chapter 5 concludes with key findings plus a number of recommendations aimed at improving accountability in the WSS sector. The report contains the following annexes: a list of institutions consulted; a detailed discussion of the corruption situation in Uganda; an overview of the water sector; golden indicators developed by the MWE; the MWE action plan; and key websites.

### **1.3 Methodology**

This study was conducted through a combination of desk review of policy documents, field trips, and unstructured interviews/discussions with key sector players such as senior officials in the MWE, senior managers at NWSC, officials from the Accountability Sector, private water operators, lead contractors, development partners funding the water sector, users, and civil society representatives. A complete list of institutions consulted is contained in Annex 1.

### **1.4 Scope**

The scope of the study is restricted mainly to the central government interventions although some attention is paid to what is happening at local government level. It should be noted, however, that the author was not able to visit all the 80 districts in Uganda. He visited Kampala and Kabale districts where he held discussions with key water sector people. The study, therefore, relied on what several other studies have to say about the situation at the local government level. This was then corroborated with information from the discussions with key stakeholders.

### **1.5 Definition of Key Concepts**

This study focuses on questions of governance, integrity, and corruption in the water sector. It is thus essential that these concepts are defined in order to place the discussion in the right context and framework.

### **1.5.1 Governance**

Governance has been defined as “the process of exercising the authority derived from the people, based on respect for the rule of law, observance of human rights and diversity, emphasizing transparent, accountable and responsive institutions which foster inclusive participation so as to empower the governed to enjoy equitable and sustainable growth, employment and prosperity.”<sup>11</sup>

Governance has also been understood by the United Nations Development Program (UNDP) to be “the exercise of political, economic and administrative authority in the management of a country’s affairs at all levels...a neutral concept comprising the complex mechanisms, processes, relationships and institutions through which citizens and groups articulate their interests, exercise their rights and obligations and mediate their differences.”<sup>12</sup>

### **1.5.2 Corruption**

Finding a definition that fully describes corruption is difficult. Even the most widely used World Bank definition, which is, “the abuse of public office for private gain” may err on the side of oversimplification. Nonetheless, this definition does capture a generally accepted description of what corruption is. There is no doubt that corruption manifests itself in various ways across the globe and therefore the definitions and perceptions vary. For purposes of this study, the World Bank definition will be used.

The Inspectorate of Government Act defines corruption in a much broader way than the World Bank. Corruption is defined as “the abuse of office for private gain and includes but is not limited to embezzlement, bribery, abuse of office, nepotism, self dealing, insider trading and influence peddling.”<sup>13</sup>

Transparency International (TI) operationally defines corruption as “the misuse of entrusted power for private gain.”<sup>14</sup> TI further differentiates between “according to rule” corruption and “against the rule” corruption. Facilitation payments, where a bribe is paid to receive preferential treatment for something that the bribe receiver is required to do by law, constitute “according to rule” corruption. The latter, on the other hand, is a bribe paid to obtain services the bribe receiver is prohibited from providing.<sup>15</sup>

The Organization for Economic Cooperation and Development in Europe (OECD) adopted a convention on corruption that defines the vice as “any offer, promise

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<sup>11</sup> Government of Uganda (2009). Draft Good Governance Thematic Paper. This paper will be included in the National Development Plan (NDP) currently being drafted.

<sup>12</sup> See World Bank (2007). Deterring Corruption and Improving Governance in the Water Supply and Sanitation Sector: A Sourcebook, 6. Several definitions of governance are provided.

<sup>13</sup> See Article 2 of the Inspectorate of Government Act No 5 of 2002.

<sup>14</sup> Transparency International available at [http://www.transparency.org/news\\_room/faq/corruption\\_faq](http://www.transparency.org/news_room/faq/corruption_faq) (accessed on 2/12/2009).

<sup>15</sup> Ibid.

or giving of a bribe to a foreign public official in order to obtain or retain international business deals.”<sup>16</sup> The focus here is on bribing of foreign officials.

At the regional level, the African Union has a convention on preventing and combating corruption.<sup>17</sup> This convention makes bold attempts to define corruption by referring to several acts of corruption in Article 4. The convention, for example, considers both giving and receiving gifts and money by public officials in the execution of their duties as acts of corruption. It also deals with the issue of influence peddling, diversion of funds, omission to perform duty, concealment of property as further acts of corruption.

The United Nations’ convention on corruption<sup>18</sup> defines it in terms of bribery, solicitation, inducement, offer, giving or diversion of funds. The United Nations Convention against Corruption (UNCaC) is the first legally binding, international anti-corruption instrument. UNCaC provides a unique opportunity to mount a global response to a global problem.

### **1.5.3 Integrity**

Integrity can be defined as steadfast adherence to a strict moral or ethical code.<sup>19</sup> This definition poses a number of difficulties as there is no universal or uniform set of morals or ethics. What may be considered moral and ethical in one country may be unacceptable in another.

### **1.5.4 Accountability**

Accountability refers to an obligation or willingness to accept responsibility or to account for one's actions.<sup>20</sup> Applied to Uganda’s water sector, the government is responsible for providing water services and government officials should be held accountable for carrying out this responsibility.

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<sup>16</sup> See Organization for Economic Cooperation and Development in Europe (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions 1999 available at <http://www.oecd.org/oecd/pages/home> as of 3/12/ 2002.

<sup>17</sup> The African Union Convention on Preventing and Combating Corruption (2006). It is available at <http://www.oau-oua.org/corruption/index.html> as of 9/11/2005.

<sup>18</sup> United Nations Convention against Corruption 2005. Details can be found at <http://www.unodc.org/unodc/en/treaties/CAC/index.html> (accessed on 24/2/2009).

<sup>19</sup> The Free Dictionary. Available at <http://www.thefreedictionary.com/integrity> (accessed on 25/2/ 2009).

<sup>20</sup> Merriam Webster online dictionary. Available at <http://www.merriam-webster.com/dictionary/accountability> (accessed on 25/2/2009).

## CHAPTER 2. THE POLITICAL ECONOMY OF CORRUPTION AND THE ANTI-CORRUPTION LANDSCAPE IN UGANDA

In this chapter, a brief overview of corruption in Uganda is given as well as of the political economy of corruption. Furthermore, the anti-corruption institutional and legal frameworks are mapped together with their main strengths and weaknesses. A detailed discussion of the political economy and anti-corruption landscape is provided in Annex 2 of this study.

### 2.1 Overview of Corruption in Uganda

According to Transparency International, Uganda is one of the countries with rampant corruption scoring below 3 on the Corruption Perception Index (CPI) since 1996 as the table below shows. Botswana, in comparison, has consistently been rated the least corrupt African country.<sup>21</sup> The CPI score relates to perceptions of the degree of corruption as seen by business people and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt).<sup>22</sup> It is important to note that the CPI score is based on perceptions of corruption and may not always represent a true picture of the actual corruption levels.<sup>23</sup> This is often either forgotten or not properly appreciated by some people who use the CPI scores to determine the corruption levels in a country.

**Table 1. Uganda's Scores on the Transparency International's Corruption Perception Index**

	Uganda		Botswana		Kenya		Tanzania		Rwanda	
	Score	Rank	Score	Rank	Score	Rank	Rank	Rank	Score	Rank
2004	2.6	102/145	6.0	31/145	2.1	129/145	2.8	90/145	-	-
2005	2.5	117/158	5.9	32/158	2.1	144/158	2.9	88/158	3.1	83/158
2006	2.7	103/163	5.6	37/163	2.2	142/163	2.9	93/163	2.5	121/163
2007	2.8	111/179	5.4	38/179	2.1	150/179	3.2	94/179	2.8	111/179
2008	2.6	126/180	5.8	36/180	2.1	147/180	3.0	102/180	3.0	102/180

**Source:** Transparency International (TI)

From the above table it is evident that the East African countries are perceived to be among those with rampant corruption. Tanzania and Rwanda scored higher (meaning less corruption) than their neighbors Uganda and Kenya. The CPI scores, however, should not be used to compare the levels of corruption across

<sup>21</sup> The Corruption Perception Index is a composite that is a poll of polls compiled by Transparency International. The Index, issued at a time of growing public concern about corruption throughout the world, is based on seven international surveys of business people, political analysts and the general public and it reflects their perception of corruption in countries on the Index. It is perception index. More about the CPI and the methodology used can be found at [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2008](http://www.transparency.org/policy_research/surveys_indices/cpi/2008) (accessed on 8/1/ 2009).

<sup>22</sup> See Transparency International Surveys and Indices at [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2008](http://www.transparency.org/policy_research/surveys_indices/cpi/2008) (accessed on 5/4/ 2009).

<sup>23</sup> Johann Graf Lambsdorff of TI notes in respect of the CPI ranking that "indeed, a ranking of countries may easily be misunderstood as measuring the perceived performance of a country with absolute precision. This is certainly not true. See Johann Graf Lambsdorff (2001). Background Paper to the 2001 Corruption Perception Index: How Precise are Perceived Levels of Corruption? 2. Available at [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2001](http://www.transparency.org/policy_research/surveys_indices/cpi/2001) (accessed on 2/6/2009).

countries but rather as an indicator of the perceived level of corruption in each country.<sup>24</sup>

The magnitude of corruption in Uganda has been documented in numerous official reports and media articles. According to the Inspectorate of Government or IGG's office, "there is a lot of collusion by civil servants to embezzle public funds."<sup>25</sup> The Inspectorate reveals a worrying trend where there is collusion amongst those supposed to detect fraudulent transactions like auditors and accounting officers.<sup>26</sup> In this situation corruption becomes very hard to detect and fight.

The New Vision, one of the leading daily newspapers in Uganda, reports that "corruption is becoming a national disaster and was growing by leaps and bounds from a molehill to a Mountain Rwenzori, from a cold to a near terminal cancer and from a behavioral lapse to a national culture." The paper goes on to point out that "the vice had become so common that people no longer report it."<sup>27</sup>

## **2.2 Public Perceptions of Corruption**

The National Integrity Survey (NIS III) established that corruption is becoming a way of life in Uganda where the corrupt are glorified by the people.<sup>28</sup> In its country report on Uganda, the African Peer Review Mechanism (APRM) notes, just like the NIS III, that the incidence of corruption is endemic and widespread in the country.<sup>29</sup> When ordinary people go to a public office to get a service most expect to pay something small even though the service should be given free. In fact, some believe that unless they pay they will not get the service or by paying they will get the service faster. This situation is related to the question of the value system accepted by the people and what they deem ethical. It would appear that petty corruption is not seen as corruption by some but rather an accepted way of doing business. Because both parties – the giver and the receiver – are happy, the giver is less inclined to report. Furthermore, either due to fear of reprisal from the accused or because of just outright apathy, people are not inclined to report alleged cases of corruption. Apathy could be the result of the public's thinking that almost no action will be taken against the allegedly corrupt persons even when they are reported to the authorities.

Over the last 23 years there has been continued progress in strengthening the legal and institutional framework to fight corruption in Uganda. However, the lack of demonstrable political will and actions in tackling high-level corruption remains a major concern for the majority of the Ugandan public and the development partners. In response to this criticism, the government has continued to reaffirm its commitment to fighting corruption. For example,

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<sup>24</sup> This point was made by a TI official at a training on measuring human rights, governance and democracy in Windhoek, Namibia, in August 2007. The author attended this training.

<sup>25</sup> Inspectorate of Government (2008). Report to Parliament July-December 2008, 37.

<sup>26</sup> Ibid p37.

<sup>27</sup> The New Vision, 18<sup>th</sup> February 2009 . "Graft becoming national disaster", 5.

<sup>28</sup> Inspectorate of Government (2008). The 3<sup>rd</sup> National Integrity Survey (NIS III) Final Report, xvi.

<sup>29</sup> African Peer Review Mechanism (2009). Republic of Uganda: APRM Country Review Report No 7, 94.

President Yoweri Museveni recently came out strongly against the vice.<sup>30</sup> But the challenge still remains in the area of tangible action being taken against the corrupt.

### **2.3 Political Economy of Corruption in Uganda: A Snapshot**

To get a deeper understanding of corruption in Uganda, it is crucial to understand the political economy of the practice. Political patronage plays an instrumental role in promoting corruption. Patronage here is understood to mean the corrupt use of state resources to advance the interests of groups, families, ethnicities or races in exchange for electoral support.<sup>31</sup> According to Andrew Mwenda and Roger Tangri, using the state and its resources has constituted a vital form of consolidating power for Africa's rulers. Donor reforms introduced under structural adjustment programs have sought to reduce the size and scope of the government. Reforms have also attempted to contain corruption and improve state governance. In Uganda where wide discretionary authority was conferred on governing elites in the implementation of reforms, public resources have been used in unaccountable and non-transparent ways to help the government maintain its political dominance.<sup>32</sup> The relationship between donors and the government has therefore helped to reproduce the patronage government. For the last 23 years, the Government of Uganda has been the recipient of development assistance. This assistance, which is increasingly being channeled via general budget support, provides the government with much needed resources to run its programs. In that sense Mwenda and Tangri are right to assert that this support has reproduced or supported the patronage government.

Mwenda and Tangri conclude that in Uganda, the requirements of patronage for a political leadership bent on remaining in power have meant that accountability, openness and probity in government actions have been liable to be subverted. Constitutional provisions to insulate public institutions from the influence of patronage politics and corrupt actions have been of limited impact.<sup>33</sup>

It is clear that political patronage is a critical feature of most countries, Uganda inclusive, and any study into accountability and corruption should be fully cognizant of it. In this patronage system, some people are protected from action for alleged corrupt acts. The existence of these protected elites suggests that there is little political will to go after those that are considered to be within the inner circle of the patronage system.

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<sup>30</sup> The New Vision, 5<sup>th</sup> June, 2009, "War Now on Corruption". President Yoweri Museveni is reported have declared war on corruption in his State of the Nation Address delivered on 4/12/ 2009. See also "Time Has Come to Arrest the Corrupt, Says Museveni", The New Vision, 19<sup>th</sup> February, 2009, 3. President Museveni is also reported in the New Vision on May 4<sup>th</sup>, 2009 urging lawyers to cooperate with the government in the fight against corruption, see "Don't Defend Corrupt, M7 Tells Lawyers," 1.

<sup>31</sup> The free dictionary. Available at <http://encyclopedia.thefreedictionary.com/patronage> (accessed on 8/1/ 2009)

<sup>32</sup> A. Mwenda & R. Tangri (2005). Patronage Politics, Donor Reforms and Regime Consolidation in Uganda. African Affairs Vol. 104. 416- 449.

<sup>33</sup> A Mwenda & R.Tangri (2005). Patronage Politics, Donor Reforms and Regime Consolidation in Uganda. African Affairs. 461.

Another example of political patronage comes from The Daily Monitor, a local newspaper, which reports that the Executive, and particularly the Office of the President, had co-opted Parliament and personalized institutions established to fight corruption. It points out that despite attempts by a former minister to block the appointment of the present vice president, whom the former minister claims was corrupt, his appointment was approved by Parliament citing religious and ethical reasons.<sup>34</sup> The coming elections in 2011 will provide a platform for possible corruption especially by those wanting to retain positions in power in both the Executive and Parliament.

## 2.4 The Anti-corruption Institutional Framework

An elaborate institutional framework exists to fight corruption in Uganda. The main institutions are outlined in Box 1 below. For a full description of the mandates of these institutions, see Annex 2.

### Box 1. Anti-corruption Institutions in Uganda

1. The Inspectorate of Government (IGG's office)
2. Directorate of Ethics and Integrity (DEI)
3. Office of the Auditor General (OAG)
4. Directorate of Public Prosecutions (DPP)
5. Public Procurement and Disposal of Public Assets Authority (PPDA)
6. Anti-Corruption Court
7. Public Accounts Committee (PAC)
8. Standing Committee on Commissions, Statutory Authorities and State Enterprises (COSASE)
9. Criminal Investigations Directorate (CID)
10. Local Government Finance Commission
11. Ad hoc initiatives - commissions of inquiry
12. Accountability Sector
13. Office of the President
14. Civil Society

## 2.5 The Challenges

The anti-corruption agencies outlined in Box 1 above are faced with a number of challenges that constrain their ability to fulfill their mandate. These include lack of effective coordination amongst the agencies themselves; inadequate funding; understaffing; high staff turnover; operating in rented premises, which raises expenses; limited legal reference materials; court delays; hostile witnesses; lack of computerized data in other institutions; and inadequate institutional support. Sophistication in corruption techniques, negative societal attitudes and high public expectations to deal with their complaints expeditiously are further challenges. In addition, all oversight agencies are not present in each of the 80 districts, but rely on regional offices which can hardly cope with the task. The Inspectorate of Government, for example, has 13 regional offices to cover the

<sup>34</sup> Daily Monitor, March 26th, 2009. "No Political Will to Fight Graft – Matembe," 3.

entire country while the PPDA is based only in Kampala. Further details of these challenges in respect of each agency are discussed in Annex 2.

## 2.6 Policy and Legal Framework (National, Regional and International)

As with the institutional framework, Uganda also has an extensive policy and legal framework to combat corruption. Apart from the national laws, Uganda is a state party to a number of regional and international anti-corruption treaties through its membership of the African Union and the United Nations. The Global Integrity Report scores Uganda very high (99.6 of 100) in respect of its legal framework.<sup>35</sup> The main laws are outlined in Table 2 below.

**Table 2. National, Regional, International Policies and Laws**

National	Regional	International
<ul style="list-style-type: none"> <li>▪ The Constitution of Uganda</li> <li>▪ The Poverty Eradication Action Plan (PEAP)</li> <li>▪ National Anti-Corruption Strategy</li> <li>▪ The Inspectorate of Government Act</li> <li>▪ Prevention of Corruption Act</li> <li>▪ The Leadership Code Act</li> <li>▪ The Access to Information Act</li> <li>▪ The Penal Code Act</li> <li>▪ The Anti-Corruption Act</li> <li>▪ The Whistleblowers Act</li> <li>▪ Qui Tam Law</li> <li>▪ Anti-Money Laundering Bill</li> <li>▪ PPDA</li> </ul>	<ul style="list-style-type: none"> <li>▪ African Union Convention on Preventing and Combating Corruption</li> <li>▪ The East African Community and East African Customs Union</li> <li>▪ The New Partnership for Africa’s Development (NEPAD)</li> <li>▪ East and Southern African Anti-Money Laundering Group (ESAAMLG)</li> </ul>	<ul style="list-style-type: none"> <li>▪ United Nations Convention against Corruption</li> <li>▪ United Nations Convention against Transnational Organized Crime 2000 (The Palermo Convention)</li> <li>▪ United Nations Convention on the Suppression of the Financing of Terrorism (1999)</li> <li>▪ United Nations Convention (the Vienna Convention) against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1998)</li> <li>▪ United Nations Security Council Resolution 1373</li> </ul>

## 2.7 Challenges

The primary challenge in respect of the laws indicated in Table 2 above is at the implementation level. According to the Global Integrity Report 2008, Uganda has a strong legal anti-corruption framework but struggles to enforce those laws.<sup>36</sup>

<sup>35</sup> Global Integrity Report (2008). Uganda 2008. Available at <http://report.globalintegrity.org/Uganda/2008> (accessed on 8/6/09).

<sup>36</sup> Ibid p1.

This may be attributed to lack of capacity of the agencies as already indicated or simply a lack of commitment from the government.

## **CHAPTER 3. OVERVIEW OF THE WATER SECTOR IN UGANDA**

### **3.1 Key Institutions**

This chapter maps the key institutions, policies and laws in the WSS sector in Uganda. An in-depth discussion of the institutions, policies, and laws is found in Annex 3 of this study. Several ministries at national level complement the work of the Ministry of Water and Environment, the line ministry for the water sector. These include the ministries of Health (MoH); Education and Sports (MoES); Gender, Labour and Social Development (MGLSD); Agriculture, Animal Industry and Fisheries (MAAIF); and Finance, Planning and Economic Development (MoFPED).

Four sub-sectors make up the sector. These are Rural Water Supply and Sanitation (RWSS), Urban Water Supply and Sanitation (UWSS), Water for Production (WfP), and Water Resources Management (WRM).

The RWSS sub-sector covers all rural communities with populations of up to 5,000. The 2002 population census estimated the rural population at 21.04 million rising to 26.2 million by 2006 and 32.75 million by 2015. The sub-sector considers two divisions of communities – villages with populations of up to 1,500 and rural growth centers (RGCs) with populations of between 1,500 and 5,000, which number approximately 850. This sub-sector is vital because it deals with provision of water to the majority of Ugandans (more than 26.2 million) who live in the rural areas.

The UWSS sub-sector is made up of large towns managed by the National Water and Sewerage Corporation (NWSC). Large towns are classified as those gazetted for operation by NWSC, which provides water and sewerage services in the 23 urban water centers of Kampala, Jinja/Njeru, Entebbe, Tororo, Mbale, Masaka, Mbarara, Gulu, Lira, Fort Portal, Kasese, Kabale, Arua, Soroti, Hoima, Bushenyi/Ishaka, Mukono, Malaba, Lugazi, Iganga, Mubende, Masindi and Kaberamaido. Mukono water service is managed by Kampala Area; Malaba town water supply is managed under Tororo Area, while Lugazi town water supply is managed under Jinja Area. The creation, rehabilitation and expansion of Iganga water supply from Jinja water supply area was completed in 2008.<sup>37</sup>

In the context of the WSS sector, small towns are all the gazetted municipalities, town councils and town boards outside the jurisdiction of NWSC. In 2007/8, there were 160 small towns classified into 1 municipality (Moroto), 79 town councils, and 80 town boards.

Private operators (POs) manage piped water services in small towns and rural growth centers. In addition, private firms undertake design and construction work under contract from the local and central governments.

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<sup>37</sup> For a map of Uganda indicating the location of the 23 towns served by National Water and Sewerage Corporation, see <http://www.nwsc.co.ug/index09.php> (accessed on 8/6/ 2009).

Furthermore, a number of institutions participate directly in the provision of water and sanitation services at the national, district, and community levels. These are the Water Policy Committee (WPC), Directorate of Water Resources Management (DWRM), Directorate of Water Development (DWD), and NWSC. The non-governmental organizations working in the sector are coordinated at the national level through the Uganda Water and Sanitation NGO Network (UWASNET). A number of donors provide money for the development budget of the Sector.

### 3.2 Sector Coordination

The water sector has an elaborate coordination structure as outlined in Box 2 below.

#### Box 2. Water Sector Coordination Structures

- The Water and Sanitation Sector Working Group (WSSWG)
- Environment and Natural Resources Working Group (ENRWG) to form the Water and Environment Sector Working Group (WESWG)
- District Water and Sanitation Coordination Committees (DWSCCs)
- Non-Government Organizations (NGOs)
- Community Based Organizations (CBOs)
- WASH Cluster Coordination

### 3.3 Key Policies, Laws

The key water sector legislation in Uganda is outlined in Box 3 below.

#### Box 3. Key Water Sector Legislation in Uganda

- Constitution of the Republic of Uganda (1995)
- The Local Government Act (1997 as amended)
- The National Water and Sewerage Corporation Act (2000)
- The Uganda Water Action Plan (1995)
- National Water Policy (1999)
- The National Environment Management Policy (1994)
- The National Environment Act (1995)
- The Environmental Impact Assessment Regulations (1998)
- National Environment (Standards for Discharge of Effluent into Water or on Land) Regulations (1999)
- National Environment (Waste Management) Regulations (1999)
- Land Act (1998)
- National Health Policy and Health Sector Strategic Plan (1999)
- National Gender Policy (1997)
- The upcoming Land Use Policy

### 3.4 Challenges

The main challenge faced in respect of the laws outlined above and the question of regulation is implementation and enforcement of the laws and performance contracts. The MWE together with the other sector institutions like NWSC have neither the human nor financial resources to fully implement all the provisions of these laws.

In addition, the National Water Policy does not make any reference to national, regional or international anti-corruption initiatives.<sup>38</sup> The starting point of advancing the governance and anti-corruption agenda in the water and sanitation sector should be expressed through a policy commitment to the national, regional and international anti-corruption laws.

The water sector laws do not provide for the right to water as a legal entitlement. It is argued by Transparency International that rights are the ultimate guarantor of equality and that when enforced, a legal right to water can be an important mechanism for poorer communities.<sup>39</sup> It is therefore recommended in Chapter 5 that the right to water should be provided for in the water sector laws.

### 3.5 Water Sector Regulation

The Ministry of Water and Environment has the responsibility of managing and regulating water resources in Uganda. Under the Water Act, MWE issues water and wastewater discharge permits.<sup>40</sup> In 2007/08 the MWE received 162 permit applications and 136 permits were issued. Additionally, out of 12 new wastewater discharge permit applications, four were issued.<sup>41</sup> The ministry itself agrees that enforcement of water laws and regulations is weak due to limited capacity at both central and local government levels.<sup>42</sup>

The ministry also carries out regulation by contract through the use of performance contracts. In collaboration with the Ministry of Finance, Planning and Economic Development, the MWE has just concluded the third performance-based contract with National Water and Sewerage Corporation.<sup>43</sup> The performance contract aims to enhance the operational and financial performance of the corporation through innovative managerial programs to advance the commercialization and social mission mandates of the corporation.<sup>44</sup> The performance contract outlines:

- (i) commercial and customer service objectives;
- (ii) operations management objectives;

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<sup>38</sup> Ministry of Water and Environment (1999). A National Water Policy. In Chapter 3 of the policy, the policy formulation context is outlined. Reference is made to the international, regional and national water-related policies and laws. There is no mention of any of the anti-corruption policies or laws.

<sup>39</sup> Transparency International (2008). Global Corruption Report 2008, 49.

<sup>40</sup> Water Act of Uganda.

<sup>41</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 27.

<sup>42</sup> Ibid p28.

<sup>43</sup> Government of Uganda (2006). Third Performance Contract for the Period 1<sup>st</sup> July 2006- 30<sup>th</sup> June 2009 between the Government of the Republic of Uganda and National Water and Sewerage Corporation.

<sup>44</sup> Ibid p5.

- (iii) human resources management objectives;
- (iv) management effectiveness objectives;
- (v) financial objectives;
- (vi) tariff policy;
- (vii) performance contract management;
- (viii) key performance targets and score cards; and
- (ix) senior management rewards and penalty scheme.<sup>45</sup>

While MWE is supposed to regulate NWSC, a ministry official acknowledged that in practice the MWE does not regulate NWSC, a view shared by RUWAS.<sup>46</sup> This situation stems from the fact that NWSC is a semi-autonomous body and MWE is not able to really regulate it. This is further compounded, according to MWE, by the limited capacity it has.<sup>47</sup>

The MWE also concludes performance contracts with the town water supply and sewerage authorities of various local governments.<sup>48</sup> The contracts run for 5 years and provide for the handover of the assets to the water authority at the local government level. The accounts of the water authority are supposed to be audited by the auditor general.<sup>49</sup>

The NWSC regulates water services in 23 urban water centers through internally delegated area management contracts (IDAMC).<sup>50</sup> These contracts, which run for 2 years, set out performance indicators that the operators have to achieve. Inbuilt are performance targets upon which incentives are paid or penalties incurred. For example, should an area manager fail to attain the minimum performance standard set out in IDAMC, he or she would be penalized with a 23% cut in income. On the other hand, should the area manager achieve or surpass the performance targets he or she receives an incentive of 25% in extra pay.<sup>51</sup> Such incentive schemes act as motivation and reduce the risk of corruption as the cost of being caught is high.

In addition, the water sector is regulated by several external institutions such as the Inspectorate of Government, Office of the Auditor General, National Environment Management Authority, and Public Accounts Committee of Parliament.

The sector has agreed that regulation needs to be more prominent, and a functional independent regulatory framework is crucial. It must be noted, however, that MWE, NWSC and RUWAS are divided over the form of regulation Uganda should adopt going forward.<sup>52</sup> The debate is about whether the country should change the current method of regulation by contract as shown above and

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<sup>45</sup> Ibid p10-30.

<sup>46</sup> Interview with officials from both MWE and RUWAS, 27/4/09 and 29/4/09.

<sup>47</sup> Ibid.

<sup>48</sup> Government of Uganda (2003) Performance Contract for Water Supply System Management between the Minister of Water, Lands and Environment and ..... Town Water Supply and Sewerage Authority (June 2003).

<sup>49</sup> Ibid p2

<sup>50</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 7.

<sup>51</sup> Interview with NWSC official, 28/11/08.

<sup>52</sup> This was revealed by officials from MWE, NWSC and RUWASS met on 27/4/09, 28/11/08 and 29/4/09.

instead go for regulation using an independent regulator. In the 2008 joint annual review, an undertaking was agreed in which the WSS sector will “finalise a framework for regulation for improved service delivery in the urban sub-sector especially transparency and contract compliance and framework for monitoring that guides the implementation of the pro poor strategy in urban areas based on an identification of lessons and constraints.”<sup>53</sup> The sector has since then taken a big step forward by creating a new Regulation Unit effective July 2009 under the MWE and within the DWD. It is envisioned that by starting off with this unit within the DWD, experiences will be gained and actual needs better identified that will guide the sector on how to move the regulation reform forward.

The issue of setting up an independent regulator is not new in the WSS sector. In 2003 it was proposed as one of the reforms that an independent regulator be set up.<sup>54</sup> Since then, however, this issue has remained pending. The table below outlines the strengths, weaknesses, opportunities and threats associated with regulation by contract.

**Table 3. Strengths, Weaknesses, Opportunities and Threats Associated with Regulation by Contract**

Strengths	Least cost Highly effective Acceptable
Weaknesses	Perceived lack of independence Weak capacity to monitor compliance
Opportunities	Enabling environment
Threats	Bureaucracy Lack of monitoring and enforcement capacity

The NWSC strongly argues against the use of an independent regulator. The corporation notes that the current regulatory framework simply needs strengthening and, besides, the creation of an independent regulator will add another unneeded layer of bureaucracy. The NWSC also points out that the concept of regulatory independence in Africa does not exist, except for Zambia.<sup>55</sup> In Zambia, the National Water Supply and Sanitation Council is the independent regulator for the WSS sector.<sup>56</sup> In contrast, MWE and RUWAS favor setting up an independent regulator to impartially supervise the sector. They also want to separate asset holding from operations. The regulator would then hold the assets while the operator runs operations, as is the case with NWSC.<sup>57</sup> The NWSC, however, counters that it indeed owns the assets but through IDAMCs it contracts out the operation of the water system.<sup>58</sup> This

<sup>53</sup> The 8<sup>th</sup> Government of Uganda /Development Partners Joint Sector Review of the Water and Sanitation Sub Sector. 14<sup>th</sup>- 16<sup>th</sup> October, 2008, Hotel Africana Kampala, Agreed Minutes, 10. Undertaking Number 2.

<sup>54</sup> Interview with NWSC official, 18/6/09.

<sup>55</sup> Interview with NWSC official, 30/4/09.

<sup>56</sup> More details about the operation of the Zambian National Water Supply and Sanitation Council (NWASCO) can be found at <http://www.irc.nl/page/6606> (accessed on 13/8/09)

<sup>57</sup> Interview with officials from MWE and RUWAS, 29/4/09 and 30/04/09.

<sup>58</sup> Interview with NWSC official, 28/11/08.

debate between setting up an independent regulator viz-a-viz regulation by contract is still ongoing in the sector.

An independent regulator would be better suited to dealing with corruption issues within the WSS sector. The main advantages of setting up an independent regulator include:

- (i) removing the line ministry from a conflict of interest situation;
- (ii) allowing for important decisions such as setting tariffs to be done in an objective and transparent way; and
- (iii) explicitly reflecting consumer interests in decision-making.

## **CHAPTER 4. ASSESSMENT OF THE CORRUPTION RISKS AND OPPORTUNITIES IN THE WATER SECTOR**

In this chapter the key corruption concerns/opportunities in the water sector are outlined as well as a mapping of the ongoing anti-corruption measures in the sector. The chapter also establishes whether there are any linkages between the water sector institutions, policies and laws with the national, regional and international mechanisms discussed in Chapter 2.

### **4.1 Key Corruption Concerns/Opportunities in the Water Sector**

It is essential to locate the discussion on key corruption risks and opportunities in the WSS sector within an international, regional and national context. In Chapter 2 it was established that Uganda, just like many other countries across the world, is affected by rampant corruption as seen in the scores and rankings of the Corruption Perception Index of Transparency International.

### **4.2 Global Corruption Risks**

#### **4.2.1 Global Corruption Report 2008**

Transparency International's (TI) "Global Corruption Report 2008: Corruption in the Water Sector" highlights the impact of corruption in relation to water all around the world and puts forward suggestions for reform. These include the use of client charters, integrity pacts, access to information, civil society participation, and effective regulation.<sup>59</sup> Some of these suggested reforms are taken on in this study in Chapter 5.

According to the TI report, it is the poor who are the main victims of the global water crisis with 1.2 billion people without access to safe drinking water and 2.6 billion lacking basic sanitation with half falling below the poverty line. The report identifies a number of corruption instances related specifically to water and sanitation including issues of access, service delivery, and maintenance.<sup>60</sup> For example, a survey in India established that 40% of water customers had made multiple small payments to falsify meter readings so as to lower their bills. Instances of bribery to get a water connection or reconnection in India, Kenya and Guatemala are discussed.<sup>61</sup> In addition, political corruption is cited as a problem in the sense that politicians may be bribed to divert resources away from improving rural supply networks to using them in urban areas where influential constituencies are based. Politicians may back expensive and high tech infrastructure projects to maximize opportunities for extortion or to steer lucrative business contracts to cronies.<sup>62</sup>

The Global Corruption Report 2008 identifies different types of corruption in the water sector including fraud, embezzlement, bribery, collusion, and nepotism.<sup>63</sup>

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<sup>59</sup> Transparency International (2008). Global Corruption Report.

<sup>60</sup> Transparency International (2008). Global Corruption Report, 43.

<sup>61</sup> Ibid p43-44.

<sup>62</sup> Ibid p45.

<sup>63</sup> Ibid p6-7.

The report outlines three sets of corrupt interactions, some of which are evident in the Ugandan water sector as will be discussed in this chapter. These sets of interaction are contained in the box below.

#### Box 4. Corruption Interaction

- Corruption in water occurs between *public officials and other public officials*. This includes corrupt practices in resource allocation – such as diverting funds for a water supply network to pay for upgrading a road near a politician’s house. It can also involve using bribes to determine the outcome of personnel management decisions – such as payments to individuals for transfers and appointments to lucrative positions. The larger the potential salary, the higher the bribe to get the post.
- It also occurs between *public officials and private actors*, and includes forms of bribery and fraud that occur in relation to licensing, procurement and construction. Collusion or bid-rigging is typical of tendering processes in developed and developing countries and involves both international and national actors.
- Corrupt practices also occur between *public officials and users/citizens/consumers*. These practices, known as administrative or petty corruption, enable poor and non-poor households, farmers and other users to get water, get it more quickly or get it more cheaply.

Source: *Global Corruption Report 2008*

The TI report makes suggestions to tackle corruption in water and sanitation. These include:

- (i) the need for committed leadership to take forward reforms with examples given from the public water utility of Phnom Penh;<sup>64</sup>
- (ii) the need to build strategies that match the capabilities of all water stakeholders at national, sector and local level;
- (iii) the importance of anti-corruption efforts for the water sector to be intentionally pro-poor;
- (iv) the use of legislation to fight corruption in water and sanitation;
- (v) the promotion of integrity and professionalism for water services through promotion of codes of conduct and citizens charters;
- (vi) making the right to water an enforceable entitlement by incorporating the right to water in special sectoral policies and government laws;
- (vii) shedding light on corruption in the water sector through access to information; and
- (viii) strengthening the voice and participation of the poor in water governance through greater public participation and transparency in budget setting activities.<sup>65</sup>

A number of these ideas and initiatives are incorporated in the recommendations in Chapter 5 of this study.

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<sup>64</sup> Transparency International (2008). *Global Corruption Report 2008*, 111.

<sup>65</sup> *Ibid* p40-61.

The Global Corruption Report 2008 points out that service providers can promote codes of conduct and citizens charters as a means of improving the professionalism and integrity of their operations.<sup>66</sup> Examples can be taken from the world class water utilities such as the Public Board of Singapore (PUB) and the Panama Canal Authority (PCA). The PUB has developed codes of governance and conduct, set up effective internal control measures, and established mechanisms to prevent and punish corruption.<sup>67</sup> The PCA also promotes integrity and oversight through regulations regarding staff ethics and behavior. These codes deal with conflict of interest, abuse of position, and acceptance of gifts.<sup>68</sup>

To make public management more transparent and autonomous and prevent political interference, the corruption report proposes that water utilities should be incorporated as separate entities. Their budgets and operational management should be clearly separate from the wider administration, overseen by a multi-stakeholder board and audited independently.<sup>69</sup> The water and sanitation sector could explore whether this is a viable option that can be introduced in Uganda. Water authorities at local government level could be incorporated as separate legal entities overseen by a board and audited separately. Of course, the costs and practical implications of this have to be fully thought through.

The TI report says that citizens can provide essential input to water policies and check the performance of both private and public utilities through local initiatives ranging from social contracts between providers and citizens to score cards, citizen surveys, and social audits.<sup>70</sup> Experiences of Bangalore in India, where citizen report cards were adopted in 1994, are impressive. Since the surveys began, the percentage of people satisfied with water and sanitation services skyrocketed from 4 percent to 73 percent in 2003.<sup>71</sup>

Transparency International reports that in Pakistan, an integrity pact that was used as part of the Greater Karachi Water Supply Scheme led to an 18% reduction in costs compared to the original estimates<sup>72</sup> while in Mexico a similar pact for a hydropower project helped achieve a savings of more than 8%.<sup>73</sup> An integrity pact can be concluded for the entire sector as was done in Argentina.<sup>74</sup>

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<sup>66</sup> Transparency International: Global Corruption Report 2008, 49.

<sup>67</sup> Ibid p113.

<sup>68</sup> Ibid p113.

<sup>69</sup> Ibid p60.

<sup>70</sup> Ibid p61.

<sup>71</sup> Ibid p117.

<sup>72</sup> Integrity Pacts are typically developed for public procurement processes and include a signed promise between the government and all interested bidders that neither side will offer, demand or accept bribes during the bidding and execution of contracts. It contains rights and obligations to the effect that neither side will: pay, offer, demand or accept bribes; collude with competitors to obtain the contract; or engage in such abuses while carrying out the contract. The IP also introduces a monitoring system that provides for independent oversight and accountability. More about IP' can be found at [http://www.transparency.org/globalpriorities/public\\_contracting/integrity\\_pacts](http://www.transparency.org/globalpriorities/public_contracting/integrity_pacts) (accessed on 15/6/9).

<sup>73</sup> Transparency International. Global Corruption Report 2008. Corruption in the Water Sector, 114-115.

<sup>74</sup> Ibid p115. In Argentina water pipe manufacturers accounting for 80% of the market struck an agreement based on IP principles to ensure fair bidding for public contracts.

## 4.2.2 Sourcebook on Deterring Corruption and Improving Governance in the Urban Water Supply & Sanitation Sector

This World Bank sourcebook is meant as a resource to assist water and sanitation sector practitioners to assess the extent and risks of corruption in the sector and to improve governance in ways that reduce corruption.<sup>75</sup> The sourcebook is presented in four parts. Part I is about assessing the risks, extent, and locales of corruption in a particular country. Part II turns to ways to reduce corruption by improving governance. Part III is about monitoring and evaluating measures carried out to improve governance, to allow learning from experience. Part IV is about understanding corruption. What is it, what sustains it, how does it relate to governance, and how might it be reduced?<sup>76</sup>

The sourcebook adopts a three-pronged approach when discussing corruption and governance, focusing on sector level, provider level, and capital projects<sup>77</sup> and identifies risks at all these levels. At the sector level, coverage, non-revenue water, collections ratio, and cost recovery are identified as the four key risk areas.<sup>78</sup> Table 4 below illustrates the risks associated with each of these areas. In the latter parts of this chapter it will be shown that some of these risks have been identified within the water sector in Uganda.

**Table 4. Corruption and Sector Performance Indicators**

Indicator	Description	Possible relationship to poor governance or corruption (or both)
Water and Sanitation Coverage	Water coverage refers to the percentage of the population with access to an improved water source.	Good coverage indicates that the sector is putting resources to good use. However, water coverage must be understood in the country context. For instance, developed countries will tend to have better coverage than less-developed countries, and countries that are low-cost to serve will tend to have higher coverage than countries that are high-cost to serve. In this sense, as an indicator or “red flag” of corruption, water coverage should be assessed in terms of how far coverage is from where it might be expected to be given income and geography.

<sup>75</sup> World Bank (2008). Deterring Corruption and Improving Governance in the Urban Water Supply & Sanitation Sector: A Sourcebook, iii.

<sup>76</sup> Ibid p1.

<sup>77</sup> Ibid p2.

<sup>78</sup> Ibid p24.

**Table 4. Corruption and Sector Performance Indicators – continued**

Indicator	Description	Possible relationship to poor governance or corruption (or both)
Non-revenue Water	Water that has been produced and is “lost” before it reaches the customer. Losses can be “physical” losses (for instance, through leaks) or “commercial” losses (for instance, through theft or metering inaccuracies).	High physical losses may indicate a corruption risk. For instance, under-investment in pipes may be the result of: <ul style="list-style-type: none"> <li>• a tendency to misuse resources generally</li> <li>• poor quality of construction and repair work</li> <li>• a bias toward large capital projects</li> </ul> High commercial losses show a chaotic commercial system, which often allows corruption to thrive.
Collection Ratio	Percentage of bills collected.	A low collection ratio indicates lack of discipline in commercial and financial systems in the sector. This lack of discipline will allow corruption to thrive.
Cost Recovery	The capture—through fees, subsidies, or other explicit transfers of funds—of the cost of providing water and sanitation services.	Sectors which recover some margin above operating and maintenance (O&M) costs tend to be less corrupt than ones where tariff revenue is less than or equal to O&M costs. This may be because sectors or providers which are recovering their costs are more likely to have effective processes for financial management and accountability in place. Alternatively, if a utility isn’t recovering costs, employees are less likely to feel pressure for any kind of commercial discipline—that will allow corruption to thrive. Finally, research suggests that utilities that recover a majority of costs from their customers are more likely to be accountable to their customers.

Source: World Bank (2008) *Deterring Corruption and Improving Governance in the URBAN Water Supply & Sanitation Sector: A Sourcebook*

At the provider level several corruption hotspots were identified as well.

- Suppliers and contractors: where the utility pays outside parties for goods or services.
- Connections and commercial operations: where the utility provides connections and services to its customers in return for payment.
- Human resources: where the utility hires staff and pays them to carry out their assigned jobs.
- Company property and money: where public utility staff take the utility's property or other things of value, for their own personal gain.<sup>79</sup>

The sourcebook further notes that the supplier may (i) inflate the price of the goods or services, (ii) provide goods or services that do not meet quality specifications, or (iii) supply a lower volume than the utility paid for.<sup>80</sup>

In respect of capital projects, the sourcebook identifies (i) deficiencies in planning capital projects; (ii) deficiencies in implementing capital projects, for example in procurement and contracts negotiation; and (iii) supervision of equipment and works as the main corruption or governance problems.<sup>81</sup> Several of these risks are also found within the water sector in Uganda as discussed in this chapter.

### 4.3 Regional Corruption Risks

At the regional level, the picture is no different. A report commissioned by Cap-Net, Waternet and UNDP titled Mapping of Integrity and Accountability in Water Activities and Relevant Capacities in the SADC Region, identifies a number corruption risks common to the six countries of the region.<sup>82</sup> The report identifies several risks.

- (i) The process of decentralization holds potential threats for accountability and integrity in the water sector. In situations where community or civil society "voice" is not well articulated, there is the risk of local water management structures being dominated by powerful local interests. This problem is particularly acute in countries with a history of highly centralized government control of resources management and services provision – where the shift of responsibilities from the national or central sphere to the local has created something of a power vacuum which can be exploited.
- (ii) Lack of human resources to attend to issues around promotion of integrity and accountability in the water sector.
- (iii) Lack of implementation of anti-corruption legislation.<sup>83</sup>

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<sup>79</sup>Ibid p39.

<sup>80</sup> Ibid p39.

<sup>81</sup> Ibid p50.

<sup>82</sup> UNDP, Waternet, Cap-net. Mapping of Integrity and Accountability in Water Activities and Relevant Capacities in the SADC Region. This study maps some of the processes, institutions, organizations, laws, policies and projects active in promoting transparency, accountability and integrity in the water sector of the Southern African Development Community (SADC) region. Specifically, it focused on the six countries of Botswana, Malawi, Mozambique, Namibia, South Africa and Zambia.

<sup>83</sup> Ibid p4.

The report identifies procurement, human resource management, infrastructure development and maintenance, financial management, accountability and water supply as areas having the greatest need for capacity building.<sup>84</sup> These are similar to areas identified in Uganda as discussed below.

#### **4.4 Ugandan Water Sector Corruption Risks/Hotspots**

At the national level, the Ministry of Water and Environment has commissioned a number of studies that have identified several corruption risk points. A summary of the key studies is provided below.

##### **4.4.1 Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation**

In 2008 the Ministry of Water and Environment commissioned the Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation.<sup>85</sup> The objective was to understand and explain why the reported per capita investment cost (PCIC) of water is increasing (i.e. why there is less output for every shilling invested in 2006 compared to previous years).<sup>86</sup> The study identified a number of risks that could promote corruption in the water and sanitation sector.

##### **Expenditure Abuse by District Officials**

A review of payment documents at the districts revealed that the expenditure category of implementation monitoring is regularly abused by district officials. This category of expenditure includes mandatory public notices, political mobilization/supervision, technical monitoring, administrative monitoring, and internal audit inspection.<sup>87</sup> The study also established that the fuel logging system is not working effectively.<sup>88</sup>

##### **Procurement and Contract Management Cycle at District Level**

The use of lump sum contracts as opposed to admeasurement form of contracts is subject to abuse. This is because under the lump sum system the entire contract sum must be paid to the contractor and the contract amount cannot be adjusted once the contract is signed.<sup>89</sup> Under an admeasurement contract there is a maximum contract sum which is considered the ceiling. However, it is possible to reduce the cost in case the final costs are lower thereby enabling savings.<sup>90</sup>

##### **Sole Discretion in Setting Contract Price**

In addition, some districts notably Nakasongola, Kitgum, Nakapiripirit and Kisoro set a standard rule for the selected contractor to accept work at the district

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<sup>84</sup> Ibid p4.

<sup>85</sup> Ministry of Water and Environment / Directorate of Water Development (2008). Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation: Final Report, Volume 1, September 2008.

<sup>86</sup> Ibid p1.

<sup>87</sup> Ibid p22.

<sup>88</sup> Ibid p22.

<sup>89</sup> Ibid p29.

<sup>90</sup> Ibid p29.

engineer's estimate. This leaves the decision of the contract price solely to the district engineer, which ultimately creates high prospects of connivance with the contractors. This in turn can lead to an escalation in the costs of projects.<sup>91</sup>

### **Contracts with No Duration**

Findings also reveal that most contracts have no contract periods. It is generally assumed that the contracts will be executed in one financial year because the projects are often easy and contractors are aware that payments for works of a particular financial year cannot be carried forward to the next year yet they are only paid on completion. Accordingly, contractors cannot be legally penalized or terminated should delays of any nature occur.<sup>92</sup>

### **Poor Recording Keeping**

Record keeping at the districts is very poor. It is common to find documents of an entire financial year missing and no specific reason can be given. No storage space for documents is provided in most of the districts and personnel tend to discard documents pertaining to earlier financial years without much care. County water officers (CWOs), in most cases, travel to relatively remote distances to supervise rural water projects. This often results in inefficiency due to the inadequate transport facilitation. In some cases, such as in Mbarara, budgetary constraints have not allowed for the recruitment of CWOs. Consequently, supervision is undertaken by the district water officer (DWO) and his assistants who visit the sites only occasionally.

Records of projects executed in a given financial year are obtained from the fourth-quarter reports. It was found that no detailed project completion reports are prepared in most cases, rendering tracking a specific project difficult.<sup>93</sup> Table 5 below highlights some issues that the MWE has identified from the tracking study and the actions to be taken.

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<sup>91</sup> Ibid p29.

<sup>92</sup> Ibid p30.

<sup>93</sup> Ibid p30.

**Table 5. Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation**

	Issue Identified	MWE Action
1.	WSS must adopt a pricing framework for derivation of standard unit costs, in line with movements of the Consumer Price Index for purposes of Engineers Estimate (EEs).	<p>(i) The quality of tender documents needs to be improved.</p> <p>(ii) The intensity and quality of supervision of work in progress needs to be enhanced.</p> <p>(iii) Technology options need to be considered.</p>
2.	Streamline budget allocation by setting strict parameters for expenditures between categories. Institute penalties for re-allocation of funds by districts to non-construction costs.	Work plans inconsistent with the sector guidelines should be rejected.
3.	Adopt a regional approach to provision of water services to maximize use of the existing office and logistical infrastructure and also achieve economies of scale.	The regional approach works best with Water Supply Development Facility (WSDF) and Directorate of Water Resources Management (DWRM) and has been adopted by the Ministry of Water and Environment (MWE).
4.	PCIC calculation should be based on costs directly related to investment in new water facilities. Other costs may be calculated as follows: (1) PCOC for Per Capita Operational Costs. (2) PCMC for Per Capita Maintenance Costs.	Per Capita Investment Cost (PCIC) maintained as a golden indicator. In the analysis the breakdown between hardware and software should be pointed out.
5.	Institute stricter controls on utilization of budgets for construction of water resources.	Enforce sector guidelines.
6.	A comprehensive water mapping study should be carried out to establish which types of water sources are feasible for different districts and locations. Where cheaper sources of water are feasible, the expensive technologies such as rain water harvesting should be discouraged.	MWE (DWD – Directorate of Water Development - and DWRM) has to produce a master plan for water development per district.
7.	EEs should not be forced onto successful bidders (i.e. contractors cannot be required to offer services at prices not exceeding the EE).	Successful bids exceeding the budget with more than 20% should be reverted to user departments.
8.	All contracts must have determinate start and end dates in order to enforce contracts or blacklist non-performers.	Technical Support Units (TSUs) to inform districts to include start and end dates into contracts.

**Table 5. Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation – continued**

Issue Identified	MWE Action
9. Supervision should be strengthened and rationalized. There is a need to institute KPIs (Key Performance Indicators) for supervising staff to ensure that supervision is taking place.	MWE to enforce sector guidelines in respect of fill in of district staff structures.
10. Put in place an orderly system of records management for proper planning, for example by maintaining electronic records in all district water offices.	Consultant to review this issue on central and district level.
11. Contracts should be grouped into economic order quantities and tendered in lots.	TSUs to support districts in this endeavor.
12. Develop a mechanism of reporting which corrects the anomaly in the resultant PCIC indicator, by reporting WIP – work in progress - separately.	Carry-over of projects from one FY to the next not resulting in new people served should be reported separately.
13. The potential of using ground water sources should be investigated further due to their relatively lower cost of implementation compared to surface water sources which require elaborate water treatment systems to obtain safe water.	To enhance ground water investigations, WSDF should hire in-house hydrogeologists on a permanent basis.
14. Categorize projects in order to use selective bidding, where necessary, to avoid expensive contractors executing projects which would have been executed by lower class contractors.	Procurement and Disposal Unit to review minimum qualifications requirements.
15. PCIC should be a critical design consideration. For example, choice of system components must take into consideration the effect on PCIC.	Update the design manual for the water sector and submit to all stakeholders.

Source: *Ministry of Water and Environment*

#### **4.4.2 Fiduciary Risk Assessment for the Water and Sanitation Sector**

A Fiduciary Risk Assessment for the Water and Sanitation Sector was commissioned by the Ministry of Water and Environment in 2007.<sup>94</sup> The objective of this study was to assess and document the main fiduciary risks in the WSS sector at the central and local government levels and point out issues to be considered when formulating the Joint Water and Sanitation Sector Program Support (JWSSPS).<sup>95</sup> The study also makes recommendations on how

<sup>94</sup> Government of Uganda (2007). Fiduciary Risk Assessment for the Water and Sanitation Sector: Final Report, April 2007.

<sup>95</sup> Ibid pi.

the JWSSPS, in its formulation exercise, may address some of the risks identified.<sup>96</sup> One of the great things about this study is that it reviews a number of previous studies related to fiduciary risk assessment in Uganda, and key people and groups were consulted for the study.

#### **4.4.2.1 Fiduciary Risks at the Ministry of Water and Environment**

##### **Corruption in Procurement Process**

The assessment identifies inefficiencies in procurement processes which have been a key factor in cost escalation. Suppliers who are willing to offer credit demand higher prices to compensate for delays in payment and risks associated with this delay. Other conditionalities associated with tendering, for example provision of bid securities and other risk-related transactional costs, slow down the procurement process considerably leading to cost overruns and poor value – for-money (VfM).<sup>97</sup>

Furthermore, the assessment established that corrupt practices in the procurement processes have been reported. Cases where component managers submit names of their preferred bidders/quotations to the procurement disposal unit and bills of quantities that may build in bribes to be paid and other corrupt practices have occurred.<sup>98</sup>

In addition, it was found that the procurement function does not have a specific budget to carry out its tasks. As a result, the procurement and disposal unit is dependent on user departments to be involved in their activities. This has serious implications for the independence of the procurement and disposal unit. The activities of the procurement unit at the MWE have also been limited to contracting. There is no budget provision for monitoring and evaluation post-contracting. Thus cases of poor value-for-money resulting from poor contract management may not be discovered.<sup>99</sup>

##### **Contract Price Variation**

The study also found several instances of contract price variation caused by inaccurate bills of quantity (BoQs) in some cases exceeding the acceptable variations. Either the BoQs are poorly estimated or there is intentional collusion to increase contract costs after tender awards have been completed. Some project managers have poor recognition and adherence to procurement regulations and procedures. There is no system of punishing project managers who breach procurement regulations. The assessment, however, observes that sensitization on the delegation of roles between the PDU and project managers is aiding better cooperation in contract award processes.<sup>100</sup>

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<sup>96</sup> Ibid p1.

<sup>97</sup> Ibid p12.

<sup>98</sup> Ibid p12.

<sup>99</sup> Ibid p12.

<sup>100</sup> Ibid p13.

#### **4.4.2.2 Fiduciary Risks at the National Water and Sewerage Corporation**

A number of risk areas in respect of NWSC were found. These include:

- (i) unaccounted for water resulting from leakages and other factors, so far reduced to 30% but rising again;
- (ii) a billing system that is sometimes manipulated and tampered with;
- (iii) lack of land titles for some of the corporation's property;
- (iv) procurement processes which are not fully adhered to;
- (v) few stakeholders involved in the planning and budgeting processes;
- (vi) challenges of managing, monitoring and control of the 22 operational areas up-country;
- (vii) inadequate capacity and independence of the internal audit department, and the internal audit function is preoccupied with pre-auditing expenditures at the expense of systems reviews and VfM audits;
- (viii) management of central stores at the head office;
- (ix) fall in water levels increasing the water provision costs;
- (x) budget cuts which affect implementation of activities;
- (xi) low budget ceilings which limit the absorption capacity of external funding; and
- (xii) budget cuts instituted by MoFPED which impact on implementation of projects undertaken.<sup>101</sup>

The corporation has taken a number of measures to address these concerns. The measures include plans to revamp the Kampala water system to reduce on non-revenue water, and introduction of a new billing platform.<sup>102</sup>

#### **4.4.2.3 Fiduciary Risks at the Local Government**

At local government level the assessment makes a number of findings.

- (i) The legal and regulatory framework for local government public financial management (LGPFM) is elaborate but circumventing the public financial management (PFM) rules and guidelines is a common problem.
- (ii) Although LG officers have been provided with the technical skills in PFM in the past, the competence of some officers involved in managing WSS funds remains a challenge.
- (iii) The accountants attached to the works and technical services department (WTSD) lack the necessary qualifications and expertise.
- (iv) District engineers (DEs) and district water officers (DWOs) have skills deficiencies in handling PFM tasks.
- (v) Poor remuneration of LG employees is a major cause of job dissatisfaction, high rate of employee turnover, embezzlement of money and corruption.
- (vi) Lack of comprehensive procurement plans and where the plans exist they are not followed.
- (vii) Manipulation of the procurement process, that is:

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<sup>101</sup> Ibid p3.

<sup>102</sup> Interview with NWSC manager, 28/11/08.

- a) splitting tenders to carry out successive procurements;
- b) collusion in the award of tenders and the pricing of contracts; and
- c) the repeated selection of a few favored contractors under the pretext of using lists of pre-qualified bidders.

As a result of manipulating the procurement processes, the most competent contractor, and most competitive tender, might not be selected and poor VfM received.<sup>103</sup>

There is a high risk of double payment for activities under the joint partnership fund (JPF, now the JWSSPS) and Government of Uganda systems arising from weak internal controls and delayed disbursements under the government system.<sup>104</sup>

The assessment also identifies a number of risks associated with budgeting, accounting and reporting, internal audit, external audit, and monitoring and evaluation. The picture that emerges from this assessment is that there are several risks of corruption that need to be addressed in order to ensure that the water sector is run in an efficient and effective manner. The table below outlines what actions the MWE has agreed to undertake to resolve the risks identified in the assessment.

**Table 6. Action Plan for the Fiduciary Risk Assessment for the Water and Sanitation Sector**

Issue Identified	MWE Action
1. The memorandum of understanding (MoU) between Ministry of Water and Environment (MWE) and each local government (LG) will among others commit the LG to improve its public financial management (PFM) systems to an acceptable level, promptly address recommendations of audit processes, commit the LG to eliminate corruption by promptly and decisively dealing with any officer implicated in corrupt practices, sign public private partnerships (PPPs) with selected civil society organizations/non-governmental organizations (CSOs/NGOs) etc.	Corruption elimination will be included in the MoU between MWE and each LG.
2. LGs should involve CSOs and the communities/users in the implementation and monitoring of district water and sanitation (DWSS) activities. This should also encompass building the capacities of CSOs and (water user committees) WUCs in WSS project identification, planning, budgeting and monitoring and analyzing financial information, and supervising water supply schemes.	Technical support units (TSUs) should ensure community involvement in completion certification of water and sanitation (WSS) projects. Template for Certificate of Completion to be reviewed to include signature of WUC chairman.

<sup>103</sup> Government of Uganda (2007). Fiduciary Risk Assessment for the Water and Sanitation Sector: Final Report, April 2007, 22.

<sup>104</sup> Ibid p16.

**Table 6. Action Plan for the Fiduciary Risk Assessment for the WSS Sector – continued**

Issue Identified	MWE Action
3. A technical officer from Directorate of Water Development Technical Support Unit (DWD TSU) should attend the evaluation of WSS bids by the Technical Evaluation Committee as an advisor.	TSUs to identify procurement bottlenecks and to share in inter district meetings. TSU officers, however, can not be appointed to the Technical Evaluation Committees.
4. Value for money (VfM) and tracking studies on the WSS should become the backbone of performance measurement and should therefore be undertaken on a rotational basis on a sample of selected LGs every financial year. DWD must ensure that the recommendations are forwarded to the concerned districts within one month of completion of the study with a demand that specified actions be taken. After 6 months, checks should be carried out to determine what actions were taken.	Done for previous VfM/tracking studies. Executive Summary of Cost Variation Study and Action Matrix of Fiduciary Risk Assessment to be prepared and shared during the Joint Technical Review.
5. DWD should facilitate a forum of development partners (DPs), district water officers (DWOs), DWD/MWE officials, water based NGOs/CSOs, Anti Corruption Coalition Uganda (ACCU) and Uganda Debt Network (UDN) to examine the suitability and usefulness of the current scope, timing and administration of the VfM/tracking studies.	CSOs should be consulted when developing terms of references (ToRs) for future VfMs
6. On monitoring, a standard monitoring handbook to guide CSOs and LG staff should be developed by DWD; internal monitoring reports should be signed by any of the following: chairpersons of WUCs or project implementation committees (PICs), sub-county chiefs, local councilors (LCs).	Monitoring handbook to be developed, outlining the involvement of CSOs in this exercise.
7. A joint meeting of the works and technical services committee, CSOs and DWSCCs should be held every 6 months to review the overall performance and review the monitoring reports.	District water and sanitation coordination committees (DWSCCs) are a good forum for reviewing monitoring reports.
8. A list of standard costs should be provided to the DWOs at the beginning of each FY by DWD to enable them prepare budgets with realistic costs.	Lists of standard costs are already provided.
9. WSS must adopt a pricing framework for derivation of standard unit costs, in line with movements of the Consumer Price Index for purposes of engineers' estimates (EEs).	Possibilities of economies of scale need to be investigated.

Source: *Ministry of Water and Environment*

## 4.5 Analysis of the Key Corruption Hotspots in the Uganda Water Sector

The studies above make findings and put forward recommendations in the areas of value-for-money, financial management, and procurement. The key issue, however, is implementation of the recommendations. Some of the reasons for the non-compliance with the recommendations could be limited staff, limited resources, or lack of interest from top management. It is also worth noting that most of these studies were commissioned by the MWE and this raises issues of independence. A study commissioned by the MWE may not be as frank as one commissioned by an agency outside the ministry. In any case, it is incumbent upon MWE to take forward the recommendations. On a positive note, however, the Auditor General will be undertaking the value-for-money audits in the future.<sup>105</sup>

### 4.5.1 Procurement

Procurement emerged as the most cited area where corruption is most likely to happen in the water sector. This is a significant finding given that a country procurement assessment report carried out by the World Bank in 2004 established that 60-70% of the budget passes through Uganda's procurement systems.<sup>106</sup> In the same report the auditor general is quoted to say that '20% of the value of public procurement is lost through corrupt practices.'<sup>107</sup> This shows that corruption associated with the procurement system can lead to loss of significant resources. The Fiduciary Risk Assessment found that despite the existence of clear procurement procedures at central and local government levels, procurement and contract management remain some of the areas with high fiduciary risk in the country. Similarly, the Tracking Study discovered poor procurement and non-transparent policies that base contract awards on engineers' estimates and also prevent efficient contractors from obtaining larger portions of work.<sup>108</sup> This was further supported by all persons met during the course of this study. The problem clearly lies in the non-adherence to the Public Procurement and Disposal of Public Assets Authority (PPDA) regulations.

A common problem is that corruption generally is hard to detect as it involves collusion of both sides. For example, in a scenario where a public official involved in the procurement cycle provides the technical specifications to a prospective bidder in return for a kickback it becomes very hard to detect the corruption act, as all the formalities such as the notice of the procurement, opening of bids, evaluation of bids and award of contract are done in an open and transparent way. In addition, there are instances where the public official would open the bids to inform a selected bidder about the details of the competitors thereby creating an uneven playing field.

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<sup>105</sup> Interview with official of MWE, 27/4.09.

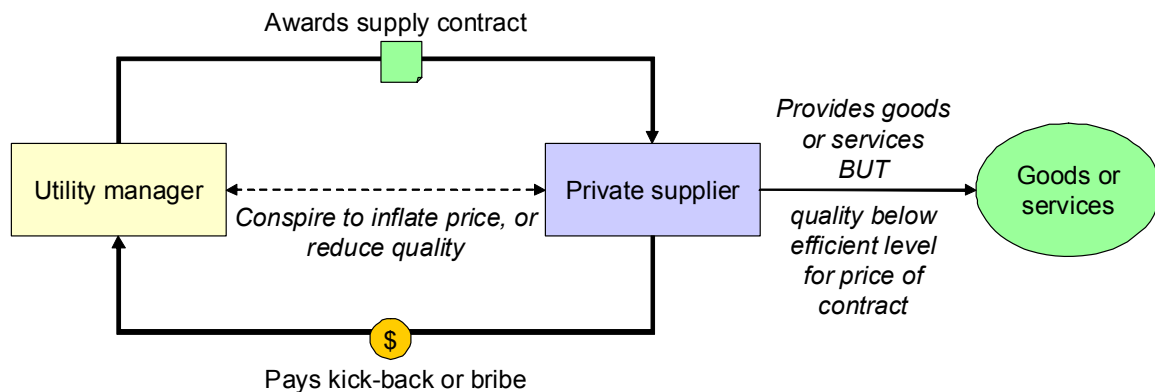
<sup>106</sup> World Bank (2004). A Country Procurement Assessment Report: Uganda (CPAR) Vol II. Main Findings and Recommendations, 9.

<sup>107</sup> Ibid p69.

<sup>108</sup> Ministry of Water and Environment (2008). Ministry of Water and Environment/ Directorate of Water Development Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation: Final Report, Vol. 1, September 2008, xii.

On the other side of the procurement story, prospective bidders themselves collude amongst themselves and agree beforehand who will bid for what. This essentially amounts to a bidders' cartel where the bidders agree that bidder A will present the most competitive bid in ministry A, local government A or for contract A, while bidder B for ministry B, local government B, or contract B. Once again, this type of transaction is hard to discern or detect. There are also instances where the same contractors are behind several bids.<sup>109</sup> Figure 1 below illustrates this scenario.

**Figure 1. Corruption in Procuring Suppliers and Contractors**



Source: *Castalia*

The PPDA's National Integrity Survey on Public Procurement provides a very useful chart that outlines the possible centers of corruption in the procurement process right from the identification of the procurement requirements to complaints and administrative review stage.<sup>110</sup>

<sup>109</sup> The author of the report was employed by the Inspectorate of Government for 8 years and during the course of his employment came across such cases.

<sup>110</sup> Public Procurement and Disposal of Public Assets Authority. National Public Procurement Integrity Baseline Survey: Final Report (2006), 22-23.

**Table 7. Types of Corruption and the Procurement Process**

**Bribery - Stages of the Procurement Process where Most Common**

Identification of procurement requirements  
Pre-qualification of providers  
Tender evaluation  
Display of adverts  
Contract management  
Receipt of bids and opening

**Extortion - Stages of the Procurement Process where Most Common**

Tender evaluation  
Display of adverts  
Pre-qualification of providers  
Identification of procurement requirements

**Overall – Most Significant Stages in Procurement Process Affected by Corruption**

Identification of procurement requirements  
Setting of tender specifications/bills of quantities and TORS & eligibility  
Pre-qualification of providers  
Display of adverts  
Receipt of bids and opening  
Tender evaluation  
Contract negotiation and signing  
Contract management

Source: *Public Procurement and Disposal of Public Assets Authority*

**Table 8. Corruption Hotspots and the Procurement Process at Local Government Level**

Stage	Positions most Prone to Corrupt Activity
1. The identification of procurement requirements	Tender board members <sup>111</sup> Secretary, tender board Chief administrative officer/town clerk Chairperson
2. Planning for procurement	Secretary, tender board Chief administrative officer/town clerk Chairperson
3. Setting of tender specifications and TOR	Secretary, tender board Tender board members District engineer
4. The pre-qualification of providers	Tender board members Secretary, tender board Chief administrative officer/town clerk
5. The choice for procurement method	Tender board members Secretary, tender board Chief administrative officer/town clerk
6. Display of adverts	Tender board members Secretary, tender board Chief administrative officer/town clerk
7. Period for bid preparation	Tender board members Secretary, tender board District engineer
8. Receipt of bids and bid opening	Tender board members Secretary, tender board
9. Tender evaluation	Tender board members Secretary, tender board District engineer
10. Contracts Committee consideration of tender evaluation	Tender board members Secretary, tender board District engineer

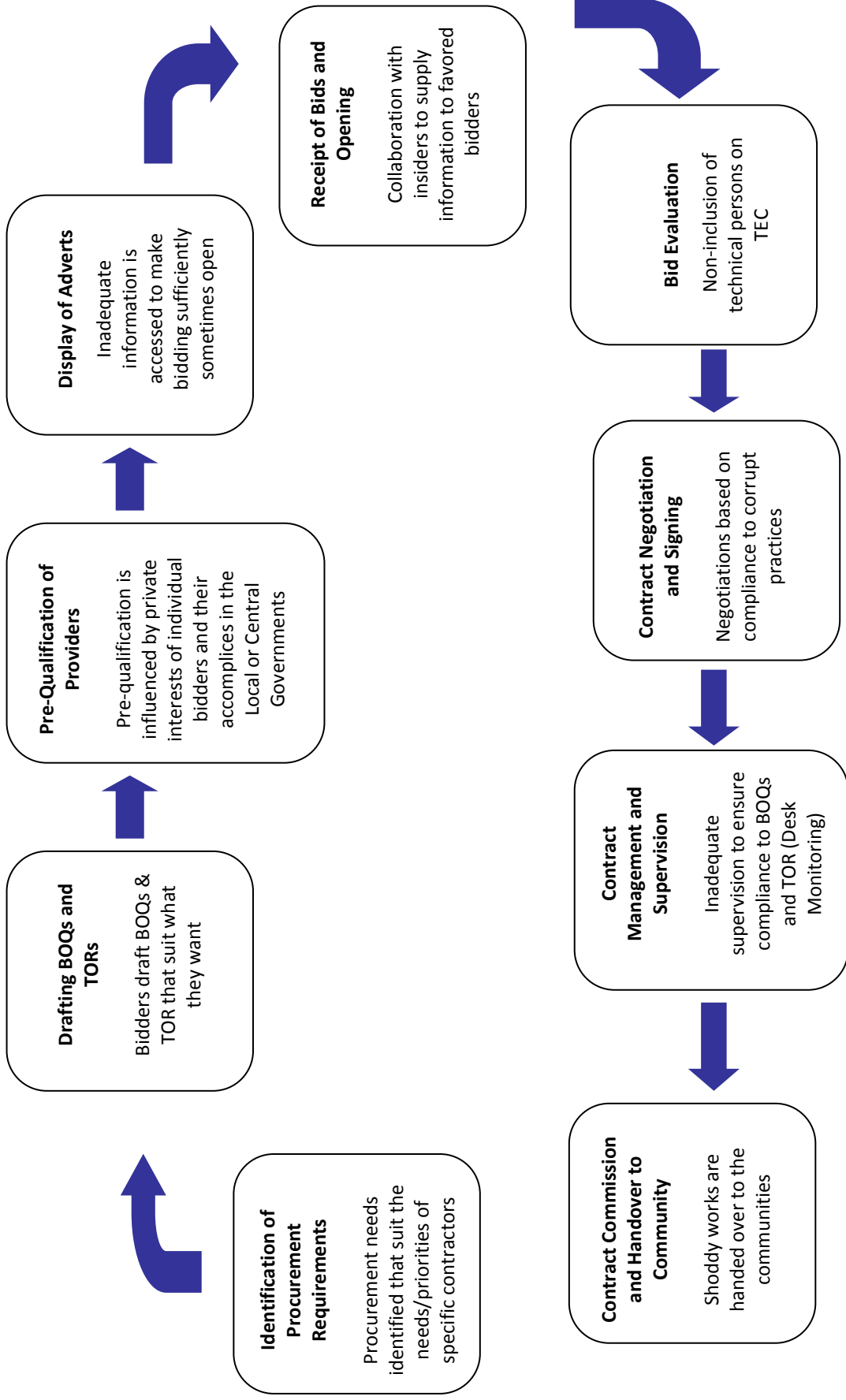
<sup>111</sup> Tender boards whose members were mostly politicians were replaced with contracts committees whose members are civil servants.

**Table 8. Corruption Hotspots and the Procurement Process at Local Government Level - continued**

	<b>Stage</b>	<b>Positions most Prone to Corrupt Activity</b>
11.	Contract negotiation and signing	Chief administrative officer/town clerk Tender board members Secretary, tender board
12.	Drawing up final contract	Chief administrative officer/town clerk Tender board members Secretary, tender board District engineer
13.	Setting of tender specifications, TOR, time taken to award contracts	Chief administrative officer/town clerk Tender board members Secretary, tender board
14.	The prequalification of providers, contract management	District engineer All department technical officers Chief administrative officer/town clerk
15.	The process for disposal of public property	Chief administrative officer/town clerk Secretary, tender board District engineer
16.	Complaints and administrative review	Chairperson Sectoral committee District engineer

Source: *Public Procurement and Disposal of Public Assets Authority. National Public Procurement Integrity Baseline Survey 2006.*

**Figure 2. Possible Corruption Instances in the Procurement Cycle**



According to the Association of Private Water Operators Uganda (APWO), corruption involving water contracts starts at the request for proposals level with the procurement and disposal unit (PDU). The units often do not follow the set guidelines and money sometimes changes hands at this level. The PDU, in its call for proposals, sometimes requests sub-standard designs and bills of quantity (BoQs). Following on from this, the contracts committee evaluates and awards a contract that is flawed. This is then followed by lack of effective contract management and monitoring by the water authority and contracts committee. APWO notes that during the tender bid evaluation process some contract committees change specifications and do not inform all the bidders. This in turn leads the way for shoddy work to be done. In some cases, the consultant to supervise the work bids low to get the work and they work together with the consultant to inflate the BoQs. The additional money is shared between client, consultant and contractor for each certificate paid.

Sometimes no groundwater studies are done and as a result water points are put in places with hardly any water. The management of the contract is also another area of concern. Management contracts are awarded for 3 years to private operators and are subject to renewal. However, in some districts management contracts are issued annually and this annual renewal provides an avenue for corruption as money might change hands before a contract is renewed. The lack of contract periods identified in the MWE Tracking Study which leaves the district without any legal protection from errant contractors is yet another problem.<sup>112</sup>

#### **4.5.2 Political Interference**

Political interference is another avenue for possible corruption.<sup>113</sup> It can take the form of directives from political leaders at all levels on where water projects should be located. Politicians are keen to have services like water taken to their constituents under any circumstances as one way of demonstrating that they are delivering services to their people. In these cases, political interests override the priorities and plans of the water sector. If the civil servant at the ministry or at the district water office stands up to the politician who could be a minister or district chairman, the civil servant could be bypassed for promotion or dismissed outright. It is thus in the interest of the civil servants to be in the good books of their political masters. This in reality amounts to influence-peddling as those with influence and power can cause water projects to be allocated to their areas at the expense of those without influence or from the wrong side of the political spectrum. The MWE cited an example where a valley dam was constructed in a specific district on orders from above.<sup>114</sup> The construction of this valley dam was not planned for.

Closely related to the issue of political interference is the question of allocation. As already noted, distribution of water points or projects should be done on

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<sup>112</sup> Ministry of Water and Environment Ministry of Water and Environment /Directorate of Water Development (2008) .Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation: Final Report, Vol. 1, September 2008, 30.

<sup>113</sup> This was revealed by some of the MWE officials interviewed on 27/4/09.

<sup>114</sup> This was revealed by one of the MWE officials interviewed on 27/4/09.

equity and needs basis. In practice, however, this is not always the case. It is hardly surprising, therefore, that some villages, parishes, and districts will have more water points than others without any logical basis.

### 4.5.3 Water Connections

In piped water schemes, several types of petty corruption, examples of which are listed below, are common when connecting to the water network.

- (i) Demanding bribes to install connections (or to install connections within a reasonable timeframe).
- (ii) Turning a blind eye to illegal connections in return for payment.
- (iii) Users may pay utility staff or officers to understate their consumption for billing purposes and this could include understating actual consumption, tampering with the billing system – for example, by paying a meter-reader to under-read the meter, paying a utility employee or contractor to tamper with the meter, or in some other way cause under-registration of actual consumption – paying a utility employee to drop a customer from the billing system where an illegal connection has been discovered, bribing a utility employee to fail to regularize that connection (so the user can continue to steal water from the utility).
- (iv) Customers may bribe utility employees to amend a customer's record in the utility's financial system by wiping any debts recorded against the customer's account, or entering false payments.
- (v) Staff sent to disconnect a customer may accept payment for leaving the customer connected, while reporting back to the utility that the disconnection has been done. Similarly staff sent to collect debts may falsely report back to the utility that the debt has been paid.<sup>115</sup>

The 2008 National Integrity Survey by the Inspectorate of Government established that this type of petty corruption is common in Uganda. It found that frustrating clients seeking services is coded language intended to communicate to the client the need for a bribe and that it is up to the client to interpret the code.<sup>116</sup> The NWSC admits that there are cases of petty corruption in the area of new connections, undertaking repair work and avoiding disconnection for non-payment. This is done by the staff of the contractors hired to manage the water system but is further propagated by the public who have gotten used to offering "something small" to get services.<sup>117</sup>

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115 World Bank (2004). A Country Procurement Assessment Report: Uganda (CPAR) Vol. II. Main Findings and Recommendations, 46-47.

116 Inspectorate of Government. The 3<sup>rd</sup> National Integrity Survey 2008, 22.

117 Interview with NWSC official, 28/11/08.

## **Box 5. Case that Typifies the Problem Faced by Some When Trying to Get Connected to the Water Grid in Uganda**

### **Case of a Resident of Muyenga in Kampala**

On December 15<sup>th</sup> 2008, I applied to the Kampala National Water and Sewerage Kansanga office, paid the requisite dues of UGX 190,000. I was informed that I would be fully connected to the water system within 3 working days. On the same day, officials from NWSC came to my site and undertook partial work. Following this they did not show up, compelling me to visit their offices weekly to remind them to come and finalize their work. I was informed that they had run out of materials. However, one of the NWSC officials advised me to offer a bribe if I wanted to get connected. I objected to this noting that I had already paid the official fees. I consequently went to the Kansanga office and demanded that either my money was refunded or I get connected. I also informed them that if they wanted a bribe they should demand it. On the 15<sup>th</sup> of January the officials came and connected the water though they used a faulty meter which leaks probably to punish me for not bribing them.

### **4.5.4 Abuse of Office and Embezzlement**

The National Water and Sewerage Corporation revealed that there are cases where cashiers and others in the accounts department were either not banking money collected or were just embezzling it outright. In 2007, for example, the management teams in the Mbarara and Fort Portal NWSC offices were sacked for misappropriating money for investment in extensions of water mains.<sup>118</sup> Water users, or customers as NWSC refer to them, can pay their monthly bills in a number of ways: through direct debit system (DD), through the banks, or cash at payment points in any of their offices. The last model presents corruption opportunities with cashiers sometimes stealing the money.<sup>119</sup>

Recruitment is another area where MWE has experienced abuse of office cases. In 2002, a personnel assistant at MWE was sacked for demanding money from people who had been offered jobs before she could issue them with their appointment letters which were in her possession.<sup>120</sup>

In 2005 a commissioner of urban water at MWE was interdicted and later dismissed for misuse of fuel.<sup>121</sup> The said commissioner was the component manager of the Danida-funded Urban Water Project. Following an audit of the project, it was established that the commissioner was involved in misuse of fuel. The matter was referred to the IGG and the case is in court.<sup>122</sup> It should be noted that the involvement of Danida played an important role in this case. The audit was commissioned by Danida and carried out by an international audit firm. It can be inferred that the close monitoring and follow up by Danida was key in ensuring that action was taken against the commissioner.

<sup>118</sup> Interview with NWSC official, 28/11/08.

<sup>119</sup> Interview with NWSC official, 28/11/08.

<sup>120</sup> Interview with MWE official, 4/5/09.

<sup>121</sup> Interview with MWE official, 4/5/09.

<sup>122</sup> Interview with MWE official, 4/5/09.

#### 4.5.5 Reallocation of Conditional Grants

During its monitoring and investigation of the Poverty Action Fund (PAF), the IGG's office established that there was diversion of PAF conditional grants.<sup>123</sup> It is not easy to discern how big the problem is as the IGG reports do not provide a breakdown of which specific grants have been reallocated. The Reform of the Urban Water and Sanitation Sector (RUWAS) revealed, however, that conditional grants meant for water and sanitation are sometimes used for other purposes by the local governments. RUWAS also acknowledged that although local governments can reallocate up to 15% of the grant across different sectors, most breach this regulation.<sup>124</sup>

#### 4.5.6 Poor Budgeting

The Fiduciary Risk Assessment established that the costing principles used in budget preparation by MWE were weak especially for civil works.<sup>125</sup> The costing included accumulated of all unassociated overheads in cost calculation for provision of tangible assets. This, the assessment concludes, increases the risk that misappropriated funds and low value for money will not be detected because of unrealistic costing/budgeting.<sup>126</sup> The use of the budget, therefore, is another way in which corruption is promoted. Escalated and inflated costs for items and activities are reflected in the budget and expenditure is carried in line with the inflated prices. During the procurement process collusion will take place between the contracting authority and the suppliers. The supplier will provide invoices reflecting the inflated amount which will be paid for by the contracting authority since the money was budgeted for and approved. In such instances the ordinary audit will not find ineligible expenditure as all expenditure is in line with the budget.

RUWAS agrees that unrealistic budgeting is a problem which is also related to the overdesign of the water facilities leading to rising costs.<sup>127</sup> An example in Mityana District was cited where an expensive water facility was pumping water for 1 hour a day due to the high operation costs. If a smaller scheme had been used, water could be pumped for about 8 hours.<sup>128</sup> APWO agrees with RUWAS by revealing that there is no proper costing of water services which results in operators failing to run the facilities at a profit.<sup>129</sup>

Additionally, the budgeting process is not transparent or clear and needs to be improved.<sup>130</sup> What is budgeted and approved is not always followed closely. For example, the final disbursements made are different from the allocation supposed to be remitted to the local governments. The rationale for releasing money or not is not very clear.

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<sup>123</sup> Inspectorate of Government (2008). Report to Parliament January- June 2008, 8.

<sup>124</sup> Interview with RUWASS official, 29/4/09.

<sup>125</sup> Government of Uganda (2007). Fiduciary Risk Assessment for the Water and Sanitation Sector: Final Report, April 2007, 10.

<sup>126</sup> Ibid p10.

<sup>127</sup> Interview with RUWAS official, 29/4/09.

<sup>128</sup> Ibid 29/4/09.

<sup>129</sup> Ibid 29/4/09.

<sup>130</sup> Ibid 29/4/09.

## **4.6 Causes of Corruption**

### **4.6.1 Inadequate Staffing**

Inadequate staffing was cited as one of the reasons for the existence of corruption. The MWE faces serious staff shortages and is consequently unable to carry out its regulatory, supervisory and monitoring function effectively. Thus, both private and public water operators are largely left unsupervised resulting in non-adherence to the law and regulations, a situation that provides opportunities for corrupt behavior. For example, under the Water Act the MWE is supposed to issue licenses authorizing use of water from the various water bodies in Uganda. The MWE, however, lacks the capacity to carry out this function hence many people are illegally using water from these water bodies.

### **4.6.2 Poor Terms and Conditions of Service**

Poor terms and conditions of service (such as lack of social security, pension scheme and medical scheme) is another possible cause of corruption. A senior engineer in MWE may earn about UGX 800,000 while a similar engineer earns about UGX 7 million in NWSC. The issue of improving the terms and conditions of service is beyond the mandate of MWE. It lies with the Ministry of Public Service and Ministry of Finance, Planning and Economic Development. Nevertheless, the leadership of MWE needs to keep advocating for an improvement. It could coordinate with other ministries, as the problem cuts across all government ministries. This is an issue that needs to be urgently addressed.

### **4.6.3 Financial Limitations**

The MWE is also mandated to regulate the sector to ensure good governance. But, as already noted, the sector has human resource and financial limitations and is one of the least funded thereby making it unable to carry out all its mandated functions. It is a matter of concern that the indicative percentage share of the budget for the sector in 2008/09 was only 2.6%.<sup>131</sup> Furthermore, there are emerging government priorities like the energy crisis and roads. Those sectors like water, which are not priorities, are subject to budget cuts. In fact, the Ministry of Finance, Planning and Economic Development (MoFPED) is recently reported to have indicated that the water and environment sector would have its 2009/10 financial year budget cut.<sup>132</sup> In financial year 2008/09, the water sector had a budget of UGX 150.28 billion and in the upcoming financial year the sector will be allocated a reduced budget of UGX 137.40 billion.<sup>133</sup> This budget cut does not bode well for the already struggling sector. With a reduced budget in 2009/10, the sector will increasingly find it difficult to fulfill its mandate. Tables 9 and 10 below illustrate that the water sector allocations over

<sup>131</sup> See Ministry of Finance, Planning and Economic Development (2008). Background to the Budget 2008/09 Fiscal Year, 75, and Uganda Bureau Statistics.

<sup>132</sup> Sunday Monitor, 26<sup>th</sup> April, 2009. "2009/10 Budget: Tough Times Ahead", 2.

<sup>133</sup> Ibid p1.

the medium term will drop. The WSS sub-sector has expressed concern over this trend.<sup>134</sup>

**Table 9. Medium Term Expenditure in Allocation (UGX Billions)**

Sector	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Public administration	174.5	134.5	159.0	206.7	154.8	161.2
Security	443.2	477.2	518.8	534.3	535.1	567.7
Justice, Law and Order Sector	234.6	280.7	269.5	288.7	306.1	309.3
Education	767.1	899.8	976.6	1030.5	1109.3	1190.2
Health	428.3	628.5	661.1	702.3	702.4	751.3
Agriculture	202.5	223.2	247.2	273.2	280.8	290.5
Works and Transport	625.6	1083.7	1195.9	1339.9	1157.2	1240.5
Water and Environment	156.3	150.3	182.6	244.3	245.7	251.3

Source: Ministry of Finance, Planning and Economic Development

**Table 10. Medium Term Expenditure Allocations (Sector Share %)**

Sector	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Public administration	3.7%	2.3%	2.3%	2.7%	1.8%	1.8%
Security	9.3%	8.2%	7.7%	6.9%	6.4%	6.2%
Justice, Law and Order Sector	4.9%	4.8%	4.0%	3.7%	3.7%	3.4%
Education	16.1%	15.4%	14.4%	13.3%	13.2%	13.0%
Health	9.0%	10.8%	9.8%	9.0%	8.4%	8.2%
Agriculture	4.3%	3.8%	3.7%	3.5%	3.4%	3.2%
Works and Transport	13.2%	18.6%	17.7%	17.2%	13.8%	13.5%
Water and Environment	3.3%	2.6%	2.7%	3.1%	2.9%	2.7%

Source: Ministry of Finance, Planning and Economic Development

#### 4.6.4 Decentralization

In 1997, Uganda adopted a decentralization policy in which some decision-making powers were transferred from the central government to the local government.<sup>135</sup> While there is no doubt that the rationale of taking decision-making nearer to the people is good, the process of decentralization holds potential threats to accountability and integrity in the water sector. With powers devolved to the local governments, corruption has been relocated from the

<sup>134</sup> Ministry of Water and Environment (2008). Agreed Minute: The 8<sup>th</sup> GoU/Development Partners Joint Sector Review of the Water and Sanitation Sub Sector. 14- 16 /10/ 2008, 4.

<sup>135</sup> The Local Government Act, 1997 gives effect to the devolution of functions, powers, and services to all levels of local government to enhance good governance and democratic participation in and control of decision-making by the people. The law also provides revenue, political and administrative set up of local governments as well as election of local councils. More details can be found on the Ministry of Local Government's website- [http://www.molq.go.ug/local\\_govts/local\\_gov\\_system.htm](http://www.molq.go.ug/local_govts/local_gov_system.htm) (accessed on 3/6/2009).

central government to the local governments. This fact is supported by the findings of the PPDA National Integrity Survey. The PPDA survey found that local governments are the third most corrupt institution after the police and the health sector.<sup>136</sup> The survey established that substantial corrupt practices were identified at each stage of the procurement process.<sup>137</sup> The MWE Fiduciary Risk Assessment comes to the same conclusion as the PPDA survey.

The assessment asserts that there is widespread manipulation of the procurement system at local government level through, for example, splitting tenders, collusion in the award of tenders, pricing of contracts, and repeated selection of a few favored contractors under the pretext of using pre-qualified bidders.<sup>138</sup> This risk is further compounded by inadequate personnel at the district and a weak civil society unable to hold the district leadership to account. The resulting risk of such a scenario is that the local government structures that are responsible for delivering water services are hijacked by powerful local interests. This was also confirmed by an MWE official.<sup>139</sup> The same risks are found at the central level implying that re-centralization may not be the solution. Rather, strengthened accountability mechanisms at both levels are required.

#### **4.6.5 Weak Civil Society**

A weak civil society coupled with deep citizen apathy compounds the lack of demand for accountability. While civil society is growing in Uganda, it is not yet at the stage of being able to effectively monitor the money going to the water sector. The Uganda Water and Sanitation NGO Network (UWASNET), with a membership of about 150 organizations, plays a key role by providing the sector with vital feedback on what is happening at the grassroots level.<sup>140</sup> However, UWASNET does not have its own independent funding; it receives most of its funding from the water and environment ministry. This raises the question of possible conflict of interest. This concern was echoed by a consultant familiar with the water sector and the operations of UWASNET.<sup>141</sup> This is made worse by a lack of interest by ordinary citizens in issues of service delivery. One reason could be that as most Ugandans do not pay taxes they do not feel that they are part of the state. Public money is seen as government money and provision of services such as water is viewed as a favor rather than a matter of rights. This leads to a lack of demand for accountability.

The media have an important role in exposing corruption and bad governance and are, together with an informed public, one of the best and effective tools to play the watchdog role. Although the media in Uganda frequently expose corruption, they do so to a lesser extent for cases in the water sector. This could

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<sup>136</sup> Public Procurement and Disposal of Public Assets Authority. National Public Procurement Integrity Baseline Survey: Final Report (2006), 28.

<sup>137</sup> Ibid.

<sup>138</sup> Government of Uganda (2007). Fiduciary Risk Assessment for the Water and Sanitation Sector: Final Report, April 2007.

<sup>139</sup> Interview with MWE official, 4/5/09.

<sup>140</sup> This was the common view held by MWE, NWSC and RUWASS officials when interviewed during the course of this study.

<sup>141</sup> Interview with consultant, 23/11/08.

be explained in part by the fact that the media do not actively engage in investigative journalism and also lack specialized capacity to focus on the sector.

#### **4.6.6 Inadequate Technical and Institutional Capacity of Private Sector**

A recent study by the Anti Corruption Coalition Uganda (ACCU) established that there was inadequate technical and institutional capacity of private sector contractors to construct water facilities. The study concludes that most water investments are constructed poorly, which increases the per capita investment due to the high rate of breakdown. The study also notes that there is use of expensive technologies leading to cost escalation.<sup>142</sup> The introduction of the policy that permitted private operators to construct water facilities saw the rapid growth of private operator firms. In this rush to establish firms, quality and technical expertise were compromised. These findings are echoed in the MWE tracking studies which call for appropriate low cost technology to be used.

The ACCU study recommends that rural areas and sparsely populated peri-urban areas should use protected springs, hand pump, equipped shallow wells or boreholes preferably, while motor or engine-driven pumps should be used in urban areas. The study identifies deep boreholes as examples of costly technologies.<sup>143</sup> In some areas, however, there is no option but to drill boreholes. For some urban areas, borehole water is most preferred as it is not as expensive as river or lake water which requires treatment before use.<sup>144</sup>

A corruption risk map of Uganda's WSS sector is presented in Annex 6.

### **4.7 Mapping of the Anti-corruption Measures**

In the course of carrying out this study a number of anti-corruption measures were found. Broadly speaking we can cluster them into two areas – those that are internal and those that are external to the water sector.

#### **4.7.1 Internal Anti-corruption Measures**

##### **4.7.1.1 Ministry of Water and Environment**

At the national level the MWE has several institutions and coordinating structures as outlined in Chapter 2. These structures have proved suitable for setting the governance agenda for the sector.<sup>145</sup> The Good Governance Sub Sector Working Group (GGSSWG) is specifically required to oversee good governance and anti-corruption initiatives. To this end a number of studies referred to in earlier sections have been commissioned by the WSS sector. As already indicated, however, there is little or slow follow up on the several recommendations contained in the reports of the various studies.

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<sup>142</sup> Anti Corruption Coalition Uganda (2008). Public Expenditure Tracking Survey in the Water Sector, 20.

<sup>143</sup> Ministry of Water and Environment/Directorate of Water Development (2008). Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation: Final Report, Vol. 1, September 2008, 7 and 14.

<sup>144</sup> Interview with MWE official, 4/5/09.

<sup>145</sup> This was the view of a Ministry of Water and Environment official met on 4/5/09.

An action plan on anti-corruption measures for improving transparency and accountability at all levels has been developed. In November 2006, the Water and Sanitation Sector Working Group (WSSWG) asked the GGSSWG to coordinate and oversee the implementation of the action plan. In addition, the WSSWG monitors the implementation of the audit action plan based on the queries of the OAG.<sup>146</sup> A copy of the action plan on anti-corruption measures and progress made by MWE is contained in Annex 5. The MWE says it is fully committed to implementing the recommendations contained in the 11-issue action plan.<sup>147</sup> The areas are outlined in Box 6 below.

The GGSSWG has been instrumental in putting governance and anti-corruption issues on the agenda of the WSS sector and has spearheaded the commissioning of the studies and action plan mentioned earlier. Also, the recent practice of including an update on progress of the action plan in the Water and Sanitation Sector Performance Report is welcome and should be continued. However, because the GGSSWG lacks the capacity and mandate to follow through on all recommendations,<sup>148</sup> it is essential that it is supported by the leadership of the MWE together with other relevant parties for effective implementation of the action plan.

Civil society also has a role in monitoring the GGSSWG as it implements the action plan because it can provide feedback as to whether the actions are carried out on the ground.

#### **Box 6. Issues in the Ministry of Water and Environment Action Plan**

- 1) Communities / beneficiaries are not fully aware of all funds released for water and sanitation from the centre to district, and from district to sub-counties.
- 2) The allocation formula used by centre in allocating resources between districts is not clearly understood by all partners and this raises suspicions about rationale and equity.
- 3) Allocation of resources between sub-sectors is not consistent with sector priorities and raises queries about equity and rationale (e.g. only 30% of the sector funding goes to rural water supplies and sanitation where 80% of the population live).
- 4) The choice criteria for investment in STs and RGCs is not clear and raises queries about equity and political interference.
- 5) Criteria for bringing new projects on board is not clear and may be inconsistent with sector priorities; this breeds inequity / non-transparency in allocation of resources.
- 6) Audit reports [SIDA, JPF] indicate weaknesses in controls and responsibility by management.
- 7) Procurement responsibility
- 8) Procurement planning
- 9) Procurement & contract management audits
- 10) Community sensitization
- 11) DWD oversight

Source: *Ministry of Water and Environment*

<sup>146</sup> Ministry of Water and Environment Action Plan on Anti-corruption Measures for Improving Transparency and Accountability.

<sup>147</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report.

<sup>148</sup> Interview with MWE official, 4/5/09.

While the MWE reports progress made in implementing the action plan as indicated in Annex 5, it would be advisable to cost the activities and indicate the sources of verification. It is essential that a budget is provided for implementation of the action plan. However, some actions may not require funding to be achieved.

Access to information is critical in taking forward the governance agenda in the water sector. Information leads to empowerment and ability to demand accountability. The MWE is obliged under the Access to Information Act to provide information to the public.<sup>149</sup> The MWE has an information officer<sup>150</sup> from whom any member of the public can request information. At the MWE all key water polices and sector reports are available. One indicator that demonstrates the level of access to information is what information is available on the websites of any institution. The MWE has no website. It is designing one at the moment. It is the Directorate of Water Development that has a website<sup>151</sup> with information on water institutions, departments, policies and tenders. Most of the information on the website, however, was last updated in 2007. The ministry intends to upload all major water policies and procurement advertisements on its website.<sup>152</sup> It could do well to emulate the Ministry of Finance, Planning and Economic Development which has a dynamic website with updated information on, say, the national budget and key polices.<sup>153</sup>

#### **4.7.1.2 National Water and Sewerage Corporation (NWSC)**

In 2008, NWSC was ranked the most honest public institution in the 3rd National Integrity Survey.<sup>154</sup> One of the key reasons that NWSC attributes to this is good leadership and the full commitment of senior management to stamping out corruption. According to NWSC, this is strengthened by good terms and conditions of service for staff, use of performance-based contracts, and existence of performance incentives. For example, a middle level manager earns UGX 7 million with additional benefits such as medical insurance. Staff are also paid performance-related bonuses. In October 2008, the Kampala Water office is reported to have made UGX 6.5 billion and about UGX 147 million was paid out in bonuses.<sup>155</sup> With such a conducive environment, the incentive to be corrupt is greatly diminished.

According to NWSC, it practices zero tolerance against corruption. In 2007, 37 members of staff were sacked following recommendations from the disciplinary committee for a number of abuses of office and corruption-related issues.<sup>156</sup>

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<sup>149</sup> The Access to Information Act 2005.

<sup>150</sup> It was established from MWE that the communications officer and senior market officer perform the functions of information dissemination.

<sup>151</sup> Ministry of Water and the Environment does not have its website but the Directorate of Water Development has a website <http://www.dwd.co.ug/>. MWE is currently developing its own website.

<sup>152</sup> This was revealed by an MWE official during an interview on 29 /4/ 2009.

<sup>153</sup> See Ministry of Finance, Planning and Economic Development website at <http://www.finance.go.ug/>

<sup>154</sup> Inspectorate of Government. The 3<sup>rd</sup> National Integrity Survey 2008, 140.

<sup>155</sup> Interview with NWSC official,28/11/08.

<sup>156</sup> Interview with NWSC official,28/11/08.

In addition, NWSC has introduced a toll free hotline – 0800100977 – which members of the public can use to report cases of corruption by its officials. The corporation has a customer relations officer responsible for following up on complaints. On average, 30-50 complaints are received daily. The complaints include no water, high bills, low water pressure, and delayed connections.<sup>157</sup>

The NWSC has a customer charter.<sup>158</sup> The charter outlines the vision, mission and goals of the corporation. The NSWC is committed to becoming one of the leading water utilities in the world through providing affordable clean water and sewage services to enhance public health and environmental protection.<sup>159</sup> The charter outlines the role of NWSC and how to, for example, get a water connection together with the expected time it will take to deal with complaints. For instance billing-related complaints are required to be handled within 48 hours while technical faults should be addressed within 12 hours.<sup>160</sup> This is a commendable initiative which other WSS sector institutions could copy.

The NWSC operates a checkers system as well. Under this system, the corporation deploys its staff to check counter books in its area offices.<sup>161</sup> The counter book is where all new applications for water connections are recorded and ensures that the system of first-come-first-serve is used. Occasionally, the managing director of NWSC requests individuals to go into an NSWC office and apply for a water connection. If a bribe is accepted by the staff, action is taken against the offending official. This acts as a stress test on the organization. Staff never know whether an applicant for a water connection is doing so under the surveillance of the managing director's office or is actually applying for a new water connection.<sup>162</sup>

In the area of access to information, NWSC is quite open. It has an officer in charge of communication<sup>163</sup> and several officials met during this study willingly provided information. The corporation, in contrast to MWE, provides a lot of information on its website.<sup>164</sup> The NWSC website contains information on tenders, tender guidelines and suppliers' forms. You can also find the annual reports, corporate plan, performance contract and internally delegated area management contracts (IDAMC). There is more information on ongoing projects including the project area, project consultant, project objectives, and project cost. All this information is an indicator of a high level of transparency. It should, however, be noted that access to the internet in Uganda is limited although ever increasing. That being the case, access to information via the website may not be the most efficient method at the moment.

While it is clear that NWSC is one of the best performing and well run institutions in the water sector, the Fiduciary Risk Assessment identified a number of risks, as outlined earlier, that the corporation needs to address.

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<sup>157</sup> Interview with NWSC customer relations officer, 30/4/09.

<sup>158</sup> See <http://www.nwsc.co.ug/index08.php> (accessed on 15/6/09).

<sup>159</sup> Ibid.

<sup>160</sup> Ibid.

<sup>161</sup> Interview with NWSC official, 28/11/08.

<sup>162</sup> Interview with NWSC official, 28/11/08.

<sup>163</sup> In the case of NWCS, the corporate planning manager acts as the information officer.

<sup>164</sup> See National Water and Sewerage Corporation website: <http://www.nwsc.co.ug>

### **4.7.1.3 Civil Society Engagement**

According to the African Development Bank, civil society participation is essential for effective and sustainable planning and management of the water sector.<sup>165</sup> In Uganda, there are over 200 NGOs and CBOs involved in WSS activities and a number of them are carrying out different initiatives aimed at improving governance in the sector.<sup>166</sup>

#### **The Network for Water and Sanitation (NETWAS)**

The Network for Water and Sanitation (NETWAS), with assistance from the World Bank, is carrying out an innovative program entitled “Improving governance in water provision through social accountability, communication and transparency in Uganda.” The program started in June 2008 with the goal of promoting better governance in the water sector in Uganda by fostering transparency, social accountability, and efficient communication.<sup>167</sup> The project engages communities in Wobulenzi Town Council to work in partnership with service providers to improve the quality of water service delivery using a mix of citizens report card (CRC) and community score card (CSC). This innovation gives service providers in Wobulenzi feedback from the community about the adequacy, efficiency and quality of water services. The service providers also get a chance to do a self-assessment after which the two groups meet and agree how improvements can be made.<sup>168</sup> This is a good model because it is not confrontational. The MWE recognizes the need to engage with communities and civil society to improve governance in the sector and strongly supports the NETWAS initiative.<sup>169</sup> Tables 11 and 12 provide examples of the community score card and the service provider’s self-assessment card.

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<sup>165</sup> African Development Bank (2008). AfDB Study on Water Sector Governance: Final Report, 11.

<sup>167</sup> The Network for Water and Sanitation (NETWAS). Uganda: Project Quarterly Progress Report January to March 2009, 4.

<sup>168</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 11.

<sup>169</sup> Ibid p11.

**Table 11. Example of a Community Score Card for Sikanusu**

Areas for improvement	Desired changes	Scores	Reasons for the score	Proposed activities
Inadequate water supply	Adequate water supply	5%	Water supply is so low	Apply for more boreholes to be constructed Nganda Khalid
High cost of water	Reduced water prices	10%	Low income of the community	Hold discussions with service providers Councilor Kasirye James
Low quality of water	Good quality water	40%	Poor quality water	Ask for a water quality specialist to test the water
Preferential treatment of adults over children at water points	Equality and fairness at water points	0%	There is no equality	Local council should discuss with vendors on the issue of children Mwanje Fred
Transparency	Service providers should inform community on upcoming activities and water plans	0%	Service providers do not inform community of events and plans	Clear introduction of service provider and their roles and duties to the community Seruwagi Kasim
Social accountability	Accountability to the water users	0%		
Dialogue	Well structured channels of two-way communication	0%	There is no communication between service providers and the community	Create avenues of communication like loudspeaker to notify community of progress and changes in water schedule and activities Hamuza Kizito

Source: *The Network for Water and Sanitation (NETWAS)*

The CSC above covers key areas of social accountability and transparency and is a useful tool as it gets the community involved in the governance of the water resources in the locality. The value of the joint assessment lies in the fact that it is owned and used by both the community and the service providers. The New Vision applauds this program saying that water-related problems in Wobulenzi may be a thing of the past if the campaign to train residents in governing the resources succeed.<sup>170</sup>

<sup>170</sup> The New Vision, Friday, May 1st, 2009. "Wobulenzi Residents Training in Water Management," 6.

**Table 12. Example of Service Providers Self-assessment Card for Sikanusu**

Areas for improvement	Desired changes	Scores	Reasons for the score	Proposed activities
System machines are old and some pumps are non- functioning	New and functioning machines	40%	Frequent breakdown of machines	To ask for new pumps from the ministry
Unstable power supply and increasing price of fuel	Uninterrupted power supply	35%	Power supply is very inconsistent	Increase on budget allowance for preparedness when power is off
Poor payment of water users	Good and timely payment	40%	High percentage of defaulters	To ask water users to pay on time
Transparency	Openness	60%	Most information is communicated	To be transparent in all activities
Social accountability	Timely reporting to the water board	45%	Roles and responsibilities are not clear	Reporting and accounting of all responsibilities
Dialogue	Frequent dialogue with water users	48%	Limited communication and dialogue between water users and service providers	Create avenues of communication with water users

Source: *The Network for Water and Sanitation (NETWAS)*

### **Anti Corruption Coalition Uganda (ACCU)**

In addition to the above initiative, seven regional branches of ACCU in West Nile, northern Uganda, Apac, Teso, Rwenzori, Kigezi, and Ankole are implementing a project to improve governance in the water sector in 20 districts. Through this project key gaps in planning, procurement, functionality of water structures, and financial management have been identified and brought to the attention of the sector.<sup>171</sup>

The ACCU runs an anti-corruption week annually. During this week, activities are held focusing on corruption in specific areas. In 2008, the ACCU anti-corruption week focused on corruption in the water sector. The ACCU also commissioned a Public Expenditure Tracking Survey in the Water Sector.<sup>172</sup> It is important that the momentum and interest generated by the 2008 anti-corruption week is carried forward. Otherwise, there is a risk that the interest will wane and a new theme or sector will be the subject of another anti-corruption week.

### **Uganda Ethics Network Outreach (UENO)**

The Uganda Ethics Network Outreach also commissioned a study focusing on sustaining good governance in water and sanitation and how the Millennium Development Goal (MDG) 7 target 10 could be attained in Uganda.<sup>173</sup> The UENO study identified several types of corruption in the water sector: paying to get water connection, bribing to falsify meter reading, political corruption where

<sup>171</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 12.

<sup>172</sup> Anti Corruption Coalition Uganda (2008). Public Expenditure Tracking Survey in the Water Sector, 20.

<sup>173</sup> Uganda Ethics Network Outreach (2008). Sustaining Good Governance in Water and Sanitation: Enhancing the Attainment of MDG 7 Target 10 in Uganda.

politicians influence diversion of resources, water mafias in slums who control water points and charge exorbitant amounts mostly from informal, unregulated water and sanitation providers, and awarding high cost contracts in areas where simple low cost contracts would suffice.<sup>174</sup>

### **WaterAid**

WaterAid runs a Policy Monitoring Project. The project aims at organizing local people to monitor government programs and budgets, and involving them in evaluating quality of service delivery.<sup>175</sup> The project is to be succeeded by a governance and transparency program<sup>176</sup> which will scale up activities. It will aim at capacity building, tracking of resources from the central to local governments, monitoring local government budget performance, mapping water resources to identify gaps, and using citizen platforms through radio programs to increase interaction between communities and leaders. The project runs in the districts of Kampala, Fort Portal, and Mbarara.<sup>177</sup> According to WaterAid, the project has succeeded in getting the citizens to expose instances of poor service delivery. For example, CIDI, a local partner of WaterAid, exposed in the press a sewerage problem in the Kawempe area of Kampala which NWSC had neglected for sometime. The NWSC solved the problem after the exposure.<sup>178</sup>

It is noteworthy that the water CSOs are involved in service delivery and as a result it is not easy for them to act as watchdogs over service providers. This would amount to policing themselves. CIDI is an example. When it exposed a solid waste disposal problem in Kawempe, it was accused by other service providers of being part of the problem because CIDI was also a service provider in the area.<sup>179</sup> This dual function of some the water CSOs is a potential source of conflict of interest.

WaterAid also points to the risk of double funding of projects in a situation where CSOs and local governments are involved in service delivery.<sup>180</sup> In Kabale District, for instance, a water project was funded by both the Northern Kigezi Diocese and the local government.<sup>181</sup>

### **Uganda Water and Sanitation NGO Network**

The Uganda Water and Sanitation NGO Network (UWASNET) has a membership of about 150 NGOs.<sup>182</sup> In 2008, WSP and UWASNET organized a training in the areas of social accountability and anti-corruption for selected members. As a result, regional partnerships were formed to conduct joint monitoring activities

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<sup>174</sup> Ibid p29.

<sup>175</sup> Interview with Tim Fowler and Davis Ddamulira of WaterAid, 4/5/09.

<sup>176</sup> Ibid 4/5/09.

<sup>177</sup> Ibid 4/5/09.

<sup>178</sup> Ibid 4/5/09.

<sup>179</sup> Ibid 4/5/09.

<sup>180</sup> Ibid 4/5/09.

<sup>181</sup> Ibid 4/5/09.

to help improve the quality of water service delivery.<sup>183</sup> This good initiative needs to be supported because CSOs have the potential to create accountability at the grassroots level and can complement the work of the oversight agencies which often lack enough capacity.

The one area that needs to be addressed, however, is the internal governance of NGOs themselves. There are instances where the executive director appoints and fires board members at will. Sometimes you find executive directors who have been in office for more than 20 years and yet have no clear succession plan. Many CSOs also lack clear recruitment and remuneration policies. It is thus important that NGOs and CBOs and CSOs adhere to good governance practices internally first before they can have any legitimacy to demand clean behavior from others.

#### **4.7.1.4 Joint Annual Reviews**

The Ministry of Water and Environment (MWE), its development partners and CSOs meet in annual joint reviews. These joint reviews are a forum where water sector institutions discuss their progress reports and work plans. This is done through presentation of the Water and Sanitation Sector Performance Report each year.<sup>184</sup> This report contains a wealth of information regarding the main achievements and challenges faced by the WSS sector. During the review, the MWE reports on progress made against the 10 golden indicators contained in Annex 4. These joint reviews also act as good avenues to discuss issues related to good governance and anti-corruption work in the sector.<sup>185</sup>

#### **4.7.1.5 District Water and Sanitation Coordination Committees (DWSCCs)**

At the district level, district water and sanitation coordination committees (DWSCCs) are supposed to be in place.<sup>186</sup> These committees in principle act as the frontline defenders of the people and guard against corruption. The MWE reports that 95% of the districts in Uganda have formed DWSCCs, which is commendable.<sup>187</sup>

#### **4.7.2 External Anti-Corruption Measures**

The water sector is also subject to a number of external anti-corruption measures. Several of the key oversight agencies like the IGG, PPDA, OAG have the mandate to investigate any allegations of corruption in the water sector.

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<sup>184</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report.

<sup>185</sup> This was the view of some of the development partners, MWE and CSO officials met during the study.

<sup>186</sup> DWSCC membership consists of administrative, political, technocrat and NGO/CBO representatives at district level. The role of the DWSCC is to oversee the implementation of WSS programs, strengthen collaboration and coordination with other sectors (health, education, social development and agriculture) and players (private sector, NGO, CBO and civil society).

<sup>187</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 11.

#### **4.7.2.1 Public Procurement and Disposal of Public Assets Authority (PPDA)**

In 2004, the PPDA commissioned PricewaterhouseCoopers (PwC) to conduct a procurement audit of the then Ministry of Water, Lands and Environment.<sup>188</sup> The PwC audit report covered 60 procurements in the ministry, accounting for 20% of the value of the total procurements. The audit firm established that 51.7% of contracts in the ministry were of high risk, 36.6% low risk, and 11.7% of medium risk in relation to corruption.<sup>189</sup> The report further revealed a number of weaknesses in the MWE as outlined below.

- Lack of procurement plans.
- Lack of proper documentation such as the record of service providers, the requests for proposals submitted to bidders, the bid evaluation reports, and the minutes of bid opening.
- Lack of attention to procurement related complaints from providers.
- Very many retrospective approvals for contracts.
- Interference from the senior ministry officials who are not related to the procurement process.
- Cost overruns especially in consultancy and works contracts.
- Limited participation of the procurement units in big contracts and instead the Contracts Committees and User Departments handle the procurement and disposal process.<sup>190</sup>

The National Procurement Integrity Survey established that the positions of permanent secretary, director, under secretary, commissioner, assistant commissioner and chief government valuer are most likely to be associated with corruption.<sup>191</sup>

Since 2007, the PPDA has investigated 6 cases in the water and sanitation sector at local government level.<sup>192</sup> The major findings were:

- (i) lack of adherence to the PPDA procurement guidelines;
- (ii) breach of the Code of Ethical Conduct in business, Fifth Schedule of the PPDA Act, 2003 which requires that employees shall reveal any personal interest that may impinge or might reasonably be deemed

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<sup>188</sup> Public Procurement and Disposal of Public Assets Authority (2004). Analysis of the PricewaterhouseCoopers Procurement Audit Report 2004, 2.

<sup>189</sup> High-risk cases are the procurements with serious weaknesses, which could cause material, financial, regulatory or reputational risks to the ministries warranting immediate attention by senior management. All procurements without any documents were considered high-risk cases. Medium risk cases are procurements with weaknesses which, although less likely to lead to material, financial, regulatory or reputational risk, warrant timely management action using the existing management framework to ensure a formal and effective system of management control exists in the ministry. The absence of key controls in an area of the ministry would normally be graded "medium" provided there is sufficient evidence of "hands on management control and oversight" at an appropriate level of seniority. Low risk cases are procurements with weaknesses where resolution within the normal management framework is considered desirable to improve efficiency or ensure that the business matches current market best practice. Deviations from laid down detailed procedures would normally be graded "low" provided there is sufficient evidence of management action to put in place and monitor compliance with detailed procedures.

<sup>190</sup> Public Procurement and Disposal of Public Assets Authority. National Public Procurement Integrity Baseline Survey: Final Report (2006), 3.

<sup>191</sup> Ibid p52.

<sup>192</sup> This information was provided by the Public Procurement and Disposal of Public Assets Authority on 11/5/2009.

- by others to impinge on an employee's business dealings with an industry; and
- (iii) interference with the functions of the contracts committee by the chief administrative officer (CAO).<sup>193</sup>

#### **4.7.2.2 The Inspectorate of Government (IGG's Office)**

The Inspectorate of Government, better known as the IGG's office, is mandated to monitor the use of Poverty Action Fund (PAF) money and to investigate suspected misuse or poor management of money for, among others, the water and sanitation sector.<sup>194</sup> The IGG report, covering the period January–June 2008 found that there was shoddy works due to inadequate monitoring and supervision of PAF projects, an indication of inadequate capacity or sheer fraud where payments are made for no work done or certification of incomplete works as complete; and failure to account for money.<sup>195</sup>

Additionally, the IGG's office established that in Gulu District in the financial year 2006/07 the water officer and a drilling company caused financial loss of UGX 13,795,084 and recommended that the money be refunded.<sup>196</sup> In Rakai District the IGG's office found that the Kasagama Valley Dam needed to be rehabilitated in order to save it from silting and contamination. Also, a borehole, WDD7427 in Mayanja Village, had to be repaired. The IGG recommended that the officers responsible should produce and submit PAF monitoring activity reports as well as financial accountability of UGX 12,800,000 to the CAO failure of which they should refund all the monies.<sup>197</sup>

There are some water sector officials who are facing charges of corruption, abuse of office, and conspiracy to defeat justice. These officials are from both the central and local governments.<sup>198</sup> The IGG's office reports that during the period January–June 2008, it received only 1 complaint against the water development department.<sup>199</sup> However, this is not an indicator that corruption is not common in the water sector. It rather may confirm that for citizens it is easier to detect corruption in other sectors such as health and the police where there is more interaction with staff.

#### **4.7.2.3 Directorate of Ethics and Integrity**

The Directorate of Ethics and Integrity (DEI) is responsible for the formulation and coordination of the implementation of the national anti-corruption policy.<sup>200</sup> This study established that all the water sector institutions have not adopted the national anti-corruption policy into their plans and policies. This has been caused

<sup>193</sup> See Annex 5 for further details.

<sup>194</sup> Inspectorate of Government (2008). Report to Parliament January- June 2008, 4.

<sup>195</sup> Ibid p8.

<sup>196</sup> Ibid p18.

<sup>197</sup> Ibid p20.

<sup>198</sup> Ibid p60.

<sup>199</sup> Ibid p117.

<sup>200</sup> The Government of Uganda (2008). The National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Uganda 2008- 2013. This strategy is yet to be formally adopted. Available at [http://www.dei.go.ug/Draft%20NACS\\_4.3.pdf](http://www.dei.go.ug/Draft%20NACS_4.3.pdf) (accessed on 4/4/2009).

by a number of factors. While the DEI has been instrumental in developing anti-corruption policies, it faces acute staffing and financial problems. The DEI is a top-heavy institution with a minister and directors but almost no technical staff.<sup>201</sup> This has meant that DEI is unable to effectively engage with all government departments and sectors. This may explain in part why the water sector is not aware of the key national anti-corruption policies.

On the other hand, there seemed in the past to be reluctance by the water sector and others to refer to national anti-corruption polices. During the launch of the findings of the 2nd National Integrity Survey in 2004, several sectors, including water, were invited to attend and make presentations on the main corruption concerns in their sectors. All except the health sector refused to attend. The reason given was that attendance amounted to an admission that corruption was prevalent in the particular sector.<sup>202</sup> This attitude reflects the challenge faced when dealing with a sensitive issue such as corruption. The instinctive reaction by any sector is to shut the door on any attempt to discuss corruption. This is a door that the recently established Accountability Sector is going to have to open carefully. The Accountability Sector is mandated to reach out to all sectors across the government with the intention of encouraging them to adopt anti-corruption measures linked to the national anti-corruption strategy.

#### **4.7.2.4 Office of the Auditor General**

#### **4.7.2.5 OAG Findings on MWE**

In its annual audit report for the year ending June 2007, the Office of the Auditor General (OAG) makes a number of interesting findings in respect of the Ministry of Water and Environment.<sup>203</sup> The OAG notes that the MWE:

- (i) made unauthorized payment of domestic taxes;
- (ii) made un-authorized salary payments;
- (iii) violated public service regulations on personnel recruitment;
- (iv) carried out recruitment without job requirements;
- (v) had expenditure outside the budget;
- (vi) did not have an approved staff structure;
- (vii) made payments to suppliers not on the pre-qualified lists;
- (viii) did not have a procurement plan contrary to the PPDA Act 2003; and
- (ix) delayed to settle invoices.<sup>204</sup>

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<sup>201</sup> The political leadership of the Directorate of Ethics and Integrity is provided by the minister of state for ethics and integrity who is a cabinet minister. The permanent secretary is the administrative head of the Directorate. There are two departments which are responsible for the technical operation of the Directorate namely; legal service, and ethics, education and information which are headed by two directors assisted by two deputy directors. More details can be found at <http://www.dei.go.ug/about.htm> (accessed on 8/1/ 2009).

<sup>202</sup> The author at the time was a governance advisor with the Embassy of Ireland and involved in preparing for this event.

<sup>203</sup> Office of the Auditor General. Annual Report of the Auditor General for the Year Ended 30<sup>th</sup> June 2007. Vol. 2 Central Government (2007).

<sup>204</sup> Ibid p101-119.

From the OAG report it is clear that there are avenues for abuse of office and corruption within the MWE which need to be addressed. The findings on procurement tally with the PPDA findings discussed earlier.

### **OAG Findings on National Water and Sewerage Corporation (NWSC)**

The OAG raises a couple of issues in respect of NWSC. (1) Unaccounted for water. Due to technical and non-technical losses in the supply system, NWSC is not able to bill all the water produced from the pumping stations. As at 30th June 2007, the unaccounted for water was 32.5% (2006: 29.7%). (2) Non-compliance with accounting standards. Included under land and buildings balance of UGX 20,950,879,000 are leasehold properties shown at valuation. This contravenes International Accounting Standard No. 17 (IAS 17) on leases. IAS 17 requires that leasehold land be separately disclosed as an operating lease at cost, and recognized as an expense in the income statement on a straight line basis over the lease term.<sup>205</sup> The OAG, in its report of June 2008, makes similar findings in respect of unaccounted for water.<sup>206</sup>

### **OAG Findings on Local Governments (LGs)**

The OAG is mandated to carry out 1,093 audits of local authorities. The OAG, however, was not able to carry out all the audits. But for the first time the office was able to audit and complete all the 184 higher local governments and town councils, and the 5 divisions of Kampala City Council within the statutory reporting timeframe which is 31 March 2009.<sup>207</sup> The OAG notes that during the year it started work to clear the backlog of the lower local governments (sub-counties and municipal divisions) audits.<sup>208</sup>

While the OAG report makes specific findings in respect of each local authority it audited, it outlines common findings that cut across all as outlined below.

- (i) Some local councils procured goods and services worth UGX 3,768,469,417 without complying with Public Procurement Regulations.
- (ii) Most of the local councils were not remitting the unspent balances of the conditional grant money to the Consolidated Fund. UGX 4,190,800,677 in unspent conditional grants at the end of the year had not been returned by the various councils as required.
- (iii) There were cases of diversion of funds. During the financial year under review, UGX 896,155,951 was diverted by some councils for activities other than those intended.

It is evident that there are several critical issues at local government as identified by the OAG. It is also clear that the OAG has an enormous task carrying out 1,093 audits in a year. This demands that the OAG has both the

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<sup>205</sup> Office of the Auditor General. Annual Report of the Auditor General for the Year Ended 30<sup>th</sup> June 2007, 26-28.

<sup>206</sup> Office of the Auditor General. Annual Report of the Auditor General for the Year Ended 30<sup>th</sup> June 2008, 28.

<sup>207</sup> Office of the Auditor General. Annual Report of the Auditor General for the Year ended 30<sup>th</sup> June 2008, Vol. 3, Local Authorities, 8.

<sup>208</sup> For prior years and was able to complete audits of 497 entities being the balance previously reported on as audits in progress; 1,395 audits are under progress, while 893 are still outstanding. See Office of the Auditor General. Annual Report of the Auditor General for the Year ended 30<sup>th</sup> June 2008, Vol. 3, Local Authorities, 8.

human and financial capacity to deliver on its mandate. Saying the OAG is stretched to the limit is an understatement.

#### **4.7.2.6 Public Accounts Committee**

The Public Accounts Committee (PAC) of Parliament is mandated to request government ministries and institutions to respond to queries raised in the auditor general's annual report. The PAC has had a backlog of audit reports to examine. Until recently it had only considered reports dating as far back as 2000/01 and 2001/02.<sup>209</sup> The committee, however, is now dealing with this backlog. In March 2009 MWE was requested to respond to queries for the period 2003-2006.<sup>210</sup> The minister, permanent secretary and commissioners of water for production, RWSS and forestry attended the PAC session.<sup>211</sup> The main issues raised by PAC for MWE to respond to were:

- (i) water for production project money not accounted for;
- (ii) unauthorized diversion of project money to fund a ministerial delegation to Mozambique;
- (iii) breach of contract in respect of valley dams in Sembabule District;
- (iv) revenue from water permit fees;
- (v) revenue from the forestry department;
- (vi) contract costs variation in Kabarole Water offices;
- (vii) money borrowed not refunded by water for production department under the small towns project and school community project; and
- (viii) refund to State House comptroller.<sup>212</sup>

The MWE has responded to these queries and at the time of the study PAC had yet to assess the ministry's answers.<sup>213</sup>

#### **4.7.2.7 Standing Committee on Commissions, Statutory Authorities and State Enterprises**

The Standing Committee on Commissions, Statutory Authorities and State Enterprises (COSASE) of Parliament is another oversight agency. The committee is mandated to cover public entities such as the NWSC, a statutory authority. The Natural Resources Committee has oversight mandates over water sector institutions as well. COSASE has requested NWSC to respond to audit queries raised by the auditor general including value-for-money audits within one month,<sup>214</sup> meaning by the end of May 2009.

#### **4.7.2.8 President's Office and Office of the Prime Minister Initiatives**

In 2008, President Yoweri Museveni announced that the Government of Uganda, through the Office of the Prime Minister, will start a new scheme known as

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<sup>209</sup> Interview with official of parliament, 4/5/09.

<sup>210</sup> Interview with MWE official, 4/5/09.

<sup>211</sup> MWE officials attended PAC on 16/3/2009. This information was obtained from MWE on 4/5/09.

<sup>212</sup> Ibid.

<sup>213</sup> Ibid.

<sup>214</sup> This notice was placed in the Daily Monitor, Wednesday, 5/05/09, and was addressed to all accounting officers, 37.

barazas.<sup>215</sup> Under this scheme, community forums, or baraza in Kiswahili, at sub-county level will be formed to monitor implementation of central and local government programs. Every three months the community, through non-governmental organizations and community monitors, will monitor and assess what the resources released have been spent on. This program has the potential to involve the people in monitoring government programs. The findings from the barazas will be collated and fed into the Community Information System to generate data on a range of activities and issues such as the number of functional or non-functional health centers and water facilities. It is essential that the water and sanitation sector keenly follows the roll out of the baraza scheme and incorporate the findings into the sector reports.

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<sup>215</sup> Interview with official of the Accountability Sector, 8/6/09. The program is being piloted in the districts of Nebbi, Bushenyi, Masaka, and Kumi.

## **CHAPTER 5. RECOMMENDATIONS**

This chapter outlines several recommendations aimed at fighting corruption in the water and sanitation sector in Uganda. The recommendations are drawn largely from the findings stated above and are outlined in descending order with the most immediate or critical first. It is anticipated that these recommendations will form the basis for a revised Good Governance Action Plan for the sector. It will be essential that the activities in the action plan are costed by the Ministry of Water and Environment.

### **5.1 Political Leadership**

Political leadership, will and commitment to fighting corruption are a prerequisite to any anti-corruption effort.<sup>216</sup> This will and commitment should be demonstrated across the length and breadth of both central and local governments. The WSS sector could also borrow a leaf from National Water and Sewerage Corporation where the top leadership is committed to fighting corruption, something that explains why the NWSC is rated among the top cleanest organizations in Uganda. It is essential that the top leadership of ministry and the Water Policy Committee commit themselves to supporting implementation of the MWE anti-corruption action plan. The sector should build on the current political support for anti-corruption initiatives such as the barazas.

### **5.2 Set Up an Independent Regulator**

The WSS sector should have an independent regulator. The MWE holds the regulatory function of the sector. However, there is a conflict of interest situation because the MWE is also the executing ministry. An independent regulator would be better placed to act in an impartial and objective way in, for example, setting tariff rates.

In the short term it is recommended that the MWE strengthens its oversight of NWSC to ensure adherence to the performance contract that NWSC has signed with the government. This could be done by strengthening the Directorate of Water Development, the body responsible for managing, monitoring and regulating water resources.<sup>217</sup> This includes filling all vacant positions on the established staffing structure of the DWD, further on-job training of staff, and increased budgetary allocation to match the task of regulation and enforcement.

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<sup>216</sup> Transparency International (2008). Global Corruption Report 2008, 110. According to the report, political leadership from the top is necessary to create momentum and legitimacy to drive institutional reforms.

<sup>217</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 9.

### **5.3 Enforce Ministry of Water and Environment Sectoral Specific Schedules and Guidelines**

The MWE should adhere to, and enforce, sectoral specific schedules/guidelines<sup>218</sup> as one way of ensuring that the issues identified in the action plan and this study are addressed. These guidelines set out sector policies and strategies; district annual work plans; budgets and reports; sector standards, principles, and procedures; district water and sanitation conditional grant allocations; co-financing by communities; and operation and maintenance of urban water supply and sewerage systems.<sup>219</sup> For the ministry to implement the sectoral guidelines effectively, it will need more human and financial resources. It is evident that having an adequate budget is at the heart of taking forward most of these recommendations. In view of the reality that the MWE is at the receiving end of budget cuts, it is only practical it prioritize what it can do with its limited human and financial resources situation.

### **5.4 Monitoring and Evaluation**

Both the MWE Cost Variation Study and Fiduciary Risk Assessment identified weak monitoring and evaluation as a problem at all levels yet M&E is at the heart of stemming the procurement-related problems. It is, therefore, strongly recommended that the ministry prioritizes M&E to ensure effective contract performance by the NWSC and at local government level. The Fiduciary Risk Assessment established that the procurement function at the ministry does not have a dedicated budget. It is essential that the Procurement and Disposal Unit has the resources to carry out its mandate. The internal audit function also needs to be facilitated better to effectively carry out post-contracting, monitoring and evaluation.

### **5.5 Contract Periods**

The PPDA and MWE should encourage all district water authorities to conclude contracts with a specific contract period. The Cost Variation Study established that some districts concluded contracts with no contract period. This meant that contractors could not be legally penalized for delays.

### **5.6 Use of Admeasurement Form of Contracts**

The PPDA and MWE should encourage all districts to use the admeasurement form of contracts as opposed to lump sum form of contracts. The admeasurement contract considers a maximum contract sum as a ceiling while allowing for lowering of the contract sum. The lump sum contract considers the contract sum as final and cannot be changed even when the final cost is lower. Therefore the admeasurement contract is more flexible and districts should be encouraged to use it.

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<sup>218</sup> Ministry of Water and Environment (2006). Sectoral Specific Schedules and Guidelines 2007/8. Final. December 2006.

<sup>219</sup> Ibid.

## **5.7 Effective Internal Audit**

The MWE, NWSC and local governments need to urgently allocate money and personnel to make the internal audit function effective. The ministry's own Fiduciary Risk Assessment discovered that the internal audit function was largely ineffective with little systems review, inspections, and value for money audits.

## **5.8 Capacity Building for District Officials and Private Operators**

The MWE, NWSC, the PPDA and civil society organizations should carry out coordinated training of district officials and private operators in record keeping and management. A poor record keeping culture was identified by the Cost Variation Study as a weakness in the sector and this creates a conducive atmosphere for corruption to thrive. The training can be done by including sessions on record keeping in programs run by CSOs such as WaterAid and NETWAS. There is also need for the MWE or development partners to build the technical capacity of the private contractors. In addition, the PPDA should train the relevant officials at district level to ensure compliance with the procurement procedures and guidelines.

## **5.9 Strengthen Capacity of Civil Society and the Media**

There is need to consciously strengthen the capacity of civil society, the media and the public generally to engage with the sector and hold it to account. Development partners are particularly advised to support CSOs in the areas of monitoring, policy engagement, research and advocacy. People need to be aware of their rights and obligations in so far as the provision of water is concerned. The media also need to be supported to build investigative journalism skills. Development partners are also advised to fund CSOs directly and not through the MWE as is the case today with UWASNET.

In taking forward this recommendation, it is essential to note that most of the CSOs working in the water sector are involved in service delivery as well. It might be ideal in the short run, therefore, to support anti-corruption CSOs like Uganda Debt Network and Anti Corruption Coalition Uganda. With time, water CSOs working in the area of accountability may emerge and these could be supported to build capacity.

## **5.10 Use of Client Charters**

The water sector should encourage the use of consumer/client charters. These charters would set out standards against which the consumers can measure WSS providers or hold them to account. The experience of the community score card and service provider's self-assessment card currently in use in Wobulenzi as indicated in Chapter 3 could be replicated across the country. The Ministry of Public Service has developed guidelines for developing client charters which could be used by the water sector institutions to develop their own client

charters.<sup>220</sup> The principles of integrity, honesty, client focus, transparency and accountability which are essential to fighting corruption are embedded in the template.<sup>221</sup> A client charter template as proposed by the Ministry of Public Service is provided in Annex 7. However for these charters to be effective members of the public need to be educated on their rights and duties.

### **5.11 Codes of Conduct**

The private sector contractors should develop codes of conduct in which they commit themselves to zero tolerance for corruption and to good quality work. These codes of conduct could be extended to the public officials in the water sector. The sector is also better advised to examine the Leadership Code Act of Uganda because it has provisions that deal with conflict of interest, receiving of gifts, and influence-peddling by public officials.<sup>222</sup>

### **5.12 Integrity Pacts**

The sector should adopt the use of integrity pacts. The IPs are typically developed for public procurement processes and include a signed promise between the government and all interested bidders that neither side will offer, demand or accept bribes during the bidding and execution of contracts.<sup>223</sup> An IP can be concluded at national and local government levels. It is further proposed that civil society can witness the signing of the pact. This would provide an entry point for civil society to monitor compliance and guard against using the integrity pact as a public relations tool. The sector can take advantage of the integrity pact template currently being developed by Transparency International Uganda Chapter in collaboration with PPDA and other partners.<sup>224</sup>

### **5.13 Inclusion of Priority Actions in the Budget Framework Paper**

The Ministry of Water and Environment should ensure that the recommendations in the anti-corruption action plan are included in the Budget Framework Paper

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<sup>220</sup> Ministry of Public Service (2007). Guidelines for Developing and Implementing Client Charters in Ministries, Departments, Agencies and Local Governments, 3. The guidelines indicate that a client charter shall (1) be based on the mandate, mission, objectives and plans of a public service organization, (2) be developed in consultation with the clients, (3) be simple, clear and accessible, (4) spell out the values and principles underpinning the delivery of products or services, (5) indicate the services or products provided by a public service organization and the standards of those services, (6) indicate the rights or expectations and obligations of both the service provider and the clients, (7) set out the procedure for obtaining feedback and addressing complaints from clients, (8) be subject to modification from time to time, to take into account the changing environment and needs of clients, and (9) be widely publicized in line with the Access to Information Act 2005.

<sup>221</sup> Ibid p7.

<sup>222</sup> The Leadership Code Act.

<sup>223</sup> Transparency International. Global Corruption Report 2008: Corruption in the Water Sector, 114.

<sup>224</sup> Transparency International Uganda Chapter is taking the lead in developing an Integrity Pact template to be rolled out in July 2009. A stakeholder committee comprising of the Public Procurement and Disposal of Public Assets Authority, Inspectorate of Government, Directorate of Ethics and Integrity, Accountability Sector, Judicial Service Commission, Anti Corruption Coalition Uganda, National Chamber of Commerce and Industry, and Institute for Professional Procurement is helping the process along. The committee has provided technical input into the draft integrity template and is guiding the process of preparation of the template. A memorandum of understanding template is also being developed. The MoU will be used for entities that sign up for the Integrity Pact. A consultant was due to submit the first draft of the templates for the IP and MoU in June 2009. Once the drafts are discussed by the stakeholder committee, an issues paper will be developed for discussion with the government. This was revealed by an official of Transparency International Uganda Chapter on 8/6/2009.

for financial year 2010/2011 under the section titled "Sector Performance Issues over the Medium Term". This would indicate written commitment in a national document with an allocated vote and vote function for taking action. This would also ensure that the much needed resources to carry forward the recommendations would be available.

#### **5.14 Access to Information**

Citizens need information in order to be able to demand accountability. It is thus recommended that the MWE ensures that its website, now being redesigned, is operational as soon as possible. The website should carry key ministry policies, regulations, projects, tender calls plus the Public Accounts Committee queries and responses. The NWSC could also include its connection policy and COSASE queries and responses. It is also useful that the both MWE and NWSC should inform the public from where to obtain information. At the moment both are not as proactive as they could be.

Local governments should be encouraged to set up websites on which they can upload information on tenders and contract awards. This can be done in the medium to long term. In the short term, all local governments should continue to display their budgets, and notice of tenders and awards on their noticeboards. It would be ideal that this is done in the local languages and right from the village, parish, sub-county, county to district level. This would ensure that the people have greater access to this information.

It is imperative that the websites operated by all these agencies are interactive. That is to say they should have provision for citizens, end users and CSOs to provide feedback through initiatives like i-reporter. The feedback would entail, say, posting reports, comments, pictures or videos of what is happening on the ground. For this sort of initiative to work well, sector institutions would need to have a clear mechanism to follow up what is reported/posted on the websites. Otherwise people will stop using the sites. The use of the websites is one way of implementing the Access to Information Act.

The sector could follow the example of the Panama Canal Authority which publishes the salary and representation allowances of every employee, and all foreign trips by staff and their expenses. The salary index is further supported by a list that keeps track of official foreign trips and their costs on an annual basis. The 'reporte de viajes al exterior' provides a clear indication of each trip, its destination, purpose, duration and cost. In addition to improving transparency, this list allows the ACP administration to make a more accurate estimate of the money spent in travelling.<sup>225</sup> This information would increase the transparency of Uganda's WSS institutions.

The MWE should also publish its budgets and allocations as local governments do. This would help in tracking whether the money allocated is used for its

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<sup>225</sup> World Bank Institute & Transparency International. Improving Transparency, Integrity and Accountability in the Water and Sanitation Sector (Draft), 144-145.

intended purpose. It would also provide a picture to the water sector stakeholders on the priorities of the ministry.

### **5.15 Improved Budgeting**

The MWE should enhance the use of the costing principle in budgeting, which was found to be weak by the Fiduciary Risk Assessment. Improved costing will reduce the risk of unrealistic budgeting/costing, misappropriating funds and increased value-for-money.

### **5.16 Establish the Right to Water**

It is recommended that the right to water should be incorporated into the sector policies and laws like the National Water Policy and Water Act. The policies and laws need to expressly state that there is a right to water. This would then form the basis upon which citizens can claim their right to water as an enforceable legal entitlement.

### **5.17 Guidelines on Costing of Water Facilities**

The MWE should provide guidelines on costing of designs of water facilities taking into account the circumstances in each district like size of the population to be served by the facility. This would ensure that the most cost effective facility is constructed. The ministry should also provide groundwater maps to ensure that the most appropriate and least expensive technology option is selected.

### **5.18 Linkage to Oversight Agencies and Policies**

Key water sector policies like the National Water Policy (1999) and the Uganda Water Action Plan (1995) should be aligned with the national, regional, and international corruption initiatives. Possible entry points to link these policies should be established by the MWE. For example, when some of these policies are up for mid-term review and revision, it would be ideal to include within the terms of reference that linkages to the accountability institutions and policies be made.

It is imperative that the sector link up with, for instance, the IGG's office and the Accountability Sector so that together they can develop strategies to combat corruption. One way of doing this is to invite the Accountability Sector officials to attend the water and sanitation sector joint annual reviews and other related fora. They can also seek guidance from the Accountability Sector on how to integrate anti-corruption measures in the water sector. The MWE could further hold periodic meetings with the anti-corruption agencies to share experiences. It must be noted that these oversight agencies themselves need to be strengthened for them to carry out their oversight function effectively. In view of this, strategies to tackle the problem should be designed in a way that takes into account the limited resources.

## **5.19 Strengthen NWSC's Corporate Governance Including the Internal Audit Function**

While being the outstanding performer in the WSS sector, to maintain its leadership role NWSC is urged to further strengthen its corporate governance through subscribing to a code such as the South African code for corporate governance (King 3 Report)<sup>226</sup>. Applicable to all businesses, including public companies, the King code provides guidance on issues such as corporate citizenship; risk management; integrated sustainability reporting and managing stakeholder relationships. This code can also assist in addressing the risks identified in the Fiduciary Risk Assessment, notably strengthening capacity and independence of the internal audit department in the field of systems reviews and value for money audits. The NWSC should also adequately address the audit queries raised by the Office of the Auditor General in its audit reports. The King code is already providing guidance on corporate governance to many water sector organizations in Southern Africa including the Water Utilities Corporation in Botswana and the Metolong (Water) Authority in Lesotho.

## **5.20 Introduce Sanctions by Development Partners for Non-compliance with Anti-corruption Undertakings**

The major institutions in the water sector should follow up any corruption cases reported by the IGG, the OAG, and the PAC. The MWE, NWSC and local government should also ensure that action is taken against any official involved in abuse of office. Apart from undertakings under the World Bank Poverty Reduction Support Credit (PRSC), there is no sanction for not complying with the undertakings made at the joint reviews involving the DPs. The DPs should, through the SWAp process, promote the institutionalization of rewards for compliance and sanctions for non-compliance with anti-corruption commitments in the implementation of the MWE/DWD Development Action Plan. The sanctions could take the form of budget cuts to the Joint Water and Sanitation Programme Support (JWSSPS). The possibility of sanctions may spur the water sector to comply with the undertakings. Sanctions can also be used to send a clear message to those officials involved in any corruption-related cases that the Sector takes corruption issues seriously. New anti-corruption activities, including capacity development, should be wholeheartedly supported by the DPs, through provision of relevant funding.

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<sup>226</sup> King Committee on Governance, February 2009. Draft Code of Governance: Principles for South Africa – 2009. Johannesburg, Institute of Directors.

## 6.0 REFERENCES

### A. Books, Articles, Reports

- African Development Bank (2008). AfDB Study on Water Sector Governance; Final Report.
- African Peer Review Mechanism (2009) Republic of Uganda. APRM Country Review Report No 7.
- Anti Corruption Coalition Uganda (2008). Public Expenditure Tracking Survey in the Water Sector.
- Barkan, J.D. et al (2004). The Political Economy of Uganda: The Art of Managing a Donor Financed Neo-patrimonial State.
- Barkan, J.D. (2005). Uganda: An African "Success" Past its Prime? Unpublished Paper Presented at the Woodrow Wilson International Center for Scholars, June 2, 2005.
- Cap-Net, Waternet, Stockholm International Water Institute. Mapping of Integrity and Accountability in Water Activities and Relevant Capacities in the SADC Region.
- Cohen, J. Uganda Confronts Corruption Slowly.
- Ministry of Water and the Environment / Directorate of Water Development (2008). Cost Tracking Study; Final Report Vol. 1.
- Ministry of Water and the Environment / Directorate of Water Development (2008). Cost Tracking Study; Final Report Vol. 2.
- Transparency International and World Bank (2009). Draft Terms of Reference for Baseline Study on Water Integrity.
- Government of Uganda (2004). Poverty Eradication Action Plan 2004/5- 2007/8.
- Government of Uganda (2009). Draft Good Governance Thematic Paper.
- Government of Uganda: Water and Sanitation Sector Performance Report September 2008.
- Government of Uganda, Ministry of Water and Environment/ Directorate of Water Development(2008). Tracking Study for the Water and Sanitation Sector (WSS) Cost Variation. Final Report Vol. 1 September 2008.
- Inspectorate of Government (2008). The 3rd National Integrity Survey (NIS III) 2008.
- Inspectorate of Government. Report to Parliament January – June 2008.
- Inspectorate of Government. Report to Parliament July- December 2008.
- Juila Wood. Session 8. SNV JSR Expo Presentation.
- Lumonya, D. How Did Corruption Become So Bad? Daily Monitor, January 21, 2009.
- Robinson, M. (2004). Poor Change in Uganda: Drivers, Impediments and Opportunities for Engagement.
- Ministry of Water and Environment Fiduciary Risk Assessment WSS; Final Report.
- Ministry of Water and the Environment. Action Plan for Fiduciary Risk Assessment.
- Ministry of Water and Environment (2006). Sectoral Specific Schedules and Guidelines 2007/8. Final. December 2006.
- Moncrieffe, J. (2004). Uganda's Political Economy: A Synthesis of Major Thought, Report Prepared for DfID (Uganda).
- Museveni, Y. "Time Has Come to Arrest the Corrupt, Says Museveni". The New Vision, February19, 2009.
- Mwenda, A. & Tangri, R. (2005). Patronage Politics, Donor Reforms and Regime Consolidation in Uganda. African Affairs, Vol. 104.

- Office of the Auditor General. Annual Report of the Auditor General for the Year Ended 30th June 2007. Vol. 2 Central Government (2007).
- Office of the Auditor General. Annual Report of the Auditor General for the Year Ended 30th June 2008.
- Office of the Auditor General. Annual Report of the Auditor General for the Year Ended 30th June 2008, Vol. 3 Local Authorities.
- Piron, L.H. & Norton, A. (2004). Politics and the PRSP Approach: Uganda Case Study. Working Paper No. 240. Overseas Development Institute, London.
- Public Procurement and Disposal of Public Assets Authority (2004). Analysis of the PricewaterhouseCoopers Procurement Audit Report 2004.
- Public Procurement and Disposal of Public Assets Authority (2006). National Public Procurement Integrity Baseline Survey; Final Report 2006.
- Sandbrook, R. (1985). The Politics of Africa's Economic Stagnation, Cambridge University Press, Cambridge.
- Strategic Governance and Anti-Corruption Assessment (SGACA) Uganda Pilot End of Mission Report (2007)
- Terms of Reference for Good Governance Group of the Uganda Water Sector.
- The Africa Local Council Oversight and Social Accountability Project - World Bank (2008).
- The Local Government System in Uganda: A Descriptive Study of the Political Setting, Power Structures, Local Electoral System and Local Actors.
- The Network for Water and Sanitation (NETWAS) Uganda. Project Quarterly Progress Report, January to March 2009.
- The New Vision, 18th February, 2009 "Graft Becoming National Disaster".
- Transparency International (2008). Global Corruption Report 2008: Corruption in the Water Sector.
- Uganda Bureau of Statistics. Uganda National Household Survey 2005/2006 (2007).
- UNAIDS (2007). Sub-Saharan Africa: Aids Epidemic Update. Regional Summaries 2007.
- Update on Anti-Corruption Plan September 2008.
- UWASNET. Anti-Corruption Training Report.
- Van de Walle, N. (2001). African Economies and the Politics of Permanent Crisis 1979-1999, Cambridge University Press, Cambridge.
- Water Integrity Network. Advocating for Integrity in the Water Sector (2008).
- Water Sector Governance Indicator Chart.
- World Bank Institute & Transparency International. Improving Transparency, Integrity and Accountability in the Water and Sanitation Sector.
- World Bank (2007). Deterring Corruption and Improving Governance in the Water Supply and Sanitation Sector. A Sourcebook.
- World Bank (2004). A Country Procurement Assessment Report - Uganda (CPAR) Vol. II. Main Findings and Recommendations.

## **B. Laws, Policies**

- African Union Convention on Preventing and Combating Corruption
- National Environment (Waste Management) Regulations (1999)
- National Health Policy and Health Sector Strategic Plan (1999)
- National Gender Policy (1997)
- National Water Policy (1999)
- Organization for Economic Cooperation and Development in Europe (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1999)

- The Access to Information Act (2005)
- The Constitution of Uganda 1995 (as amended)
- The Environmental Impact Assessment Regulations (1998)
- The National Environment (Standards for Discharge of Effluent into Water or on Land Regulations (1999)
- The Inspectorate of Government Act (2002)
- The Leadership Code Act (2002)
- The Local Governments Act (2000)
- The National Audit Act (2008)
- The National Environment Act (1995)
- The National Environment Management Policy (1994)
- The National Integrity Survey 1998 Baseline Report
- The National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Uganda 2008- 2013
- The Land Act (1998)
- The National Water & Sewerage Corporation Act (2000)
- The Prevention of Corruption Act (1970)
- The Public Finance and Accountability Act (2003)
- The Public Procurement and Disposal of Public Assets Act No. 1 of 2003
- The Uganda Water Action Plan (1995)
- The United Nations Convention against Corruption 2005
- The upcoming Land Use Policy
- The Water Act (1997) and accompanying regulations [Water Resources Regulations (1998), Waste Discharge Regulations (1998), the Water Supply Regulations (1999), and Sewerage Regulations (1999)]

## LIST OF ANNEXES

### Annex 1. List of Institutions Consulted

Institution
<ul style="list-style-type: none"><li>▪ National Water and Sewerage Corporation</li><li>▪ Reev Consult</li><li>▪ Ministry of Water and Environment – DWD</li><li>▪ Ministry of Water and Environment</li><li>▪ Anti Corruption Coalition Uganda</li><li>▪ Kick Corruption Out of Kabale</li><li>▪ Development Partner Working Group</li><li>▪ Public Procurement &amp; Disposal of Public Assets Authority</li><li>▪ Uganda Water and Sanitation Network</li><li>▪ Water and Sanitation Program, World Bank</li><li>▪ Anti-Corruption Working Group</li><li>▪ Interfaith-based Action for Ethics and Integrity</li><li>▪ Accountability Sector Secretariat</li><li>▪ Reform of the Urban Water and Sanitation Sector</li><li>▪ WaterAid</li><li>▪ Transparency International–Uganda Chapter</li><li>▪ Association of Private Water Operators</li></ul>

## **Annex 2. The Anti-corruption Landscape in Uganda**

In this annex, the anti-corruption landscape will be explored. This will include the institutional and legal framework in place.

### **2.1 The Anti-corruption Institutional Framework**

#### **2.1.1 The Inspectorate of Government (IGG's Office)**

Uganda has a robust institutional framework to deal with corruption. At the top of the pyramid is the Inspectorate of Government, better known as the IGG's office. This office is a creature of both an Act of Parliament<sup>227</sup> and the Constitution.<sup>228</sup> It is mandated by the Constitution to enforce accountability and integrity in public offices.<sup>229</sup> The Inspectorate of Government Act requires the IGG's office to eliminate and foster the elimination of corruption and abuse of public office; and to promote and ensure adherence to the rule of law and justice in public administration. The office also has a responsibility of enforcing the Leadership Code, which is critical in combating corruption.<sup>230</sup> Activities of the IGG's office, therefore, center on promoting and ensuring good governance in public offices.

The IGG's office has grown since 1992 from an office based in Kampala with about 20 employees to an office with 13 regional offices and more than 300 staff.<sup>231</sup> There is no doubt that the office has increased its capacity to investigate corruption cases across the country. In addition to the mandate just mentioned, the office monitors the use and investigates the suspected misuse or poor management of the water and sanitation grant sent to local governments from the central government. Indeed, the IGG's office has investigated officials from the water sector at both central and local government levels.

But the Inspectorate is faced with several challenges which constrain its ability to fulfill its mandate. These include inadequate funding, understaffing, high staff turn over, operating in rented premises, limited legal reference materials, court delays, hostile witnesses, lack of computerized data in other institutions, inadequate institutional support, sophistication in corruption techniques, negative societal attitudes and high public expectations to deal with their complaints expeditiously.<sup>232</sup> Furthermore, the office has been accused by some of targeting those opposed to the government. While this charge may be hard to prove, it nonetheless illustrates a certain public perception of this office.

#### **2.1.2 Directorate of Ethics and Integrity (DEI)**

The Directorate of Ethics and Integrity was established in 1998 as a government agency under the Office of the President. It is responsible for the formulation

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<sup>227</sup> The Inspector General of Government Statute 1986 (as amended by the Inspectorate of Government Act 2002).

<sup>228</sup> Government of Uganda. The Constitution of the Republic of Uganda 1995 (as at 15<sup>th</sup> February 2006). Chapter 13 creates the office of the Inspectorate of Government.

<sup>229</sup> Ibid Article 225.

<sup>230</sup> Ibid Articles 233- 236.

<sup>231</sup> Inspectorate of Government (2008). Report to Parliament January- June 2008 (4). The Inspectorate now has regional offices in Arua, Fort Portal, Gulu, Hoima, Jinja, Kabale, Kampala, Masaka, Mbale, Mbarara, Soroti, Moroto, Lira, and Tororo.

<sup>232</sup> Inspectorate of Government (2008). Report to Parliament January- June 2008, xvii.

and coordination of the implementation of the national anti-corruption policy.<sup>233</sup> It has several specific tasks.

1. Policy and advocacy: To ensure that effective anti-corruption policies and preventive measures are formulated and promoted.
2. Coordination: To develop and coordinate the implementation of the national anti-corruption policy.
3. Representation: To provide a political voice for the anti-corruption agenda.
4. Monitoring and evaluation: To monitor the implementation of the anti-corruption policy, to identify the need for remedial and preventative actions and respond accordingly, and collection and analysis of data relating to anti-corruption activities.<sup>234</sup>

### **2.1.3 Auditor General (AG)**

The Office of the Auditor General is a constitutional one.<sup>235</sup> It is headed by an auditor general. The auditor general is an independent authority appointed under Article 163 of the Constitution. The scope of his/her powers, duties, and responsibilities derive from the Constitution,<sup>236</sup> the National Audit Act,<sup>237</sup> the Public Finance and Accountability Act,<sup>238</sup> and the Local Authorities Act.<sup>239</sup> As an independent external auditor of the government, the role of the auditor general is to provide an independent oversight of government operations through financial, performance, and other management audits. The auditor general audits the Ministry of Water and Environment (MWE) and local governments every financial year. That is to say at the close of each financial year of the government (July-June), the auditor general audits all government departments and submits a report to Parliament where the Public Accounts Committee (PAC) scrutinizes it. The main challenges have been the delay by the auditor general in releasing the audit reports and the backlog of reports to be considered by the PAC. Recently, however, the PAC has been working to reduce the backlog.

### **2.1.4 Directorate of Public Prosecutions (DPP)**

The office of the Director of Public Prosecutions (DPP) is created under the Constitution.<sup>240</sup> It is mandated to handle and prosecute all criminal cases in the country, delegate such powers where necessary while having regard to public interest, administration of justice and the need to prevent abuse of legal process.<sup>241</sup> The DPP faces similar challenges as those of the Inspectorate of Government. In addition to these challenges, there is an operational overlap between the DPP and the Inspectorate of Government. While the IGG is

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<sup>233</sup> The Government of Uganda (2008). The National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Uganda 2008- 2013. This strategy is yet to be formally adopted. Available at [http://www.dei.go.ug/Draft%20NACS\\_4.3.pdf](http://www.dei.go.ug/Draft%20NACS_4.3.pdf) (accessed on 4/4/2009).

<sup>234</sup> More details about the functions, mandate and structure of the Directorate of Ethics and Integrity can be found at <http://www.dei.go.ug/about.htm> (accessed on 8/1/2009).

<sup>235</sup> Government of Uganda. The Constitution of the Republic of Uganda 1995 (as at 15<sup>th</sup> February 2006) Articles 163-164. More details about the office can be found at, <http://www.oag.go.ug/> (accessed on 8/1/ 2009).

<sup>236</sup> Ibid Article 163.

<sup>237</sup> The National Audit Act 2008.

<sup>238</sup> The Public Finance and Accountability Act 2003.

<sup>239</sup> The Local Government Act 1997.

<sup>240</sup> Government of Uganda. The Constitution of the Republic of Uganda 1995 (as at 15<sup>th</sup> February 2006) Article 120.

<sup>241</sup> Government of Uganda. The Constitution of the Republic of Uganda 1995 (as at 15<sup>th</sup> February 2006) Article 120 and more details about the DPP's office can be found at <http://www.jilos.go.ug/prosecutions2.php#profiles> (accessed on 8/1 2009).

mandated to prosecute corruption cases<sup>242</sup>, the DPP is charged with instituting all criminal proceedings including taking over and continuing any criminal proceedings instituted by any person or authority.<sup>243</sup> This practice has led to tension between the two agencies, further compounded by a lack a clear definition of corruption. It is hoped the Anti-Corruption Act discussed below will resolve the tension.

### **2.1.5 Public Procurement and Disposal of Public Assets Authority (PPDA)**

The Public Procurement and Disposal of Public Assets Authority is the national public procurement and disposal regulator created by an Act of Parliament.<sup>244</sup> The PPDA's tasks include to ensure the application of fair, competitive, transparent, non-discriminatory and value-for-money public procurement and disposal standards and practices; harmonize the procurement and disposal policies, systems and practices of the central government, local governments and statutory bodies; set standards for the public procurement and disposal systems in Uganda; monitor compliance of procuring and disposing entities; and build procurement and disposal capacity in Uganda.<sup>245</sup> The PPDA carries out procurement audits and surveys across all government agencies. It carried out one in respect the water sector and the findings are reflected in Chapter 4 above. The PPDA, just like the other oversight agencies, suffers from the challenges of inadequate funding and staffing. It can be said that the inadequate capacity of the PDDA together with the other oversight agencies has given most public officers at all levels a sense of security. They feel that no one will come to check and as a result corruption flourishes.<sup>246</sup>

### **2.1.6 Anti-Corruption Court**

An anti-corruption division in the High Court of Uganda was created to serve as the Anti- Corruption Court. This recent innovation is part of the broader government campaign to fight corruption.<sup>247</sup> The court is mandated to hear and try corruption cases. It is hoped that this specialized court will lead to faster disposal of corruption cases and also allow for specialization in the judiciary. While it may be true that cases may be disposed off faster, it must be borne in mind that securing convictions in corruption cases is not easy. In fact, it can be argued that administrative action is a better route to take for the bulk of corruption cases with court action being limited to those cases with the highest chances of leading to a conviction. As of December 2008, there were 252 corruption-related cases in the courts of law in the whole country. The bulk of these cases are at different stages of hearing in the magistrates courts.<sup>248</sup>

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<sup>242</sup> Ibid Article 230 (1).

<sup>243</sup> Ibid Article 120 (3) a-c.

<sup>244</sup> The Public Procurement and Disposal of Public Assets Act No. 1 of 2003.

<sup>245</sup> Ibid Section 6 and more details about the PPDA can be found at

[http://www.ppda.go.ug/index.php?option=com\\_content&task=view&id=12&Itemid=123](http://www.ppda.go.ug/index.php?option=com_content&task=view&id=12&Itemid=123) (accessed on 8/1/2009).

<sup>246</sup> The author of this study worked with the Inspectorate of Government from 1994-1999 and during that time carried out a number of investigations. During upcountry visits, we realized that most public offices had never been visited by any central government oversight agency.

<sup>247</sup> The Anti-Corruption Court was established in December 2008.

<sup>248</sup> Interview with Registrar of the Anti-Corruption Court on 8/4/09. A full list of these cases was reproduced in Saturday Vision of 11/4/2009.

Nonetheless the track record of the Anti-Corruption Court so far merits commendation. Since it was set up in December 2008, it has heard two cases that resulted in convictions.<sup>249</sup> The court is presently hearing a third case.<sup>250</sup> Commencing two cases and completing them in less than two months is quite fast for a judicial system in which cases can take on average 2-5 years to complete. The Cheeye case is historic as the sentence of 10 years and an order to refund UGX110 million has sent a chilling message that the court means business. This represents the longest sentence handed down by any court in recent memory. There is concern, however, that the court is yet to handle more powerfully connected persons. Overtime, the track record of this court will show whether prosecution as opposed to administrative action is the best way to fight corruption. It should be noted that the cases prosecuted so far arise from the high profile Global Fund scandal in which several public and private persons and NGOs were accused of misappropriating money meant for HIV/Aids, malaria and tuberculosis. This followed the findings of the Judicial Commission of Inquiry into Alleged Mismanagement of the Global Fund to Fight AIDS, Tuberculosis, and Malaria in Uganda. There is mounting pressure on the government from development partners and the Global Fund to take action against those implicated in the commission's report. It is thus hoped that the court will not be used in a rushed manner to satisfy this external pressure.

#### **2.1.7 Public Accounts Committee (PAC)**

The Public Accounts Committee is one of the standing committees of Parliament.<sup>251</sup> PAC is assigned to examine audited accounts showing the appropriation of the money granted by Parliament to meet the public expenditure of the central government.<sup>252</sup> Ministry of Water and Environment officials are obliged to appear before PAC at least once every financial year to respond to audit queries in respect of expenditure incurred in the previous financial year.

#### **2.1.8 Criminal Investigations Directorate (CID)**

The Criminal Investigations Directorate of the Uganda Police Force is charged with, among others, investigating cases of corruption and abuse of office. The CID, however, is grossly understaffed and does not have officers specialized in investigation of corruption cases. It may, for example, find it very hard to investigate cases relating to technical specifications in water projects. This problem has been seen in the area of electronic related crime in places such as banks.

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<sup>249</sup> The Court has to-date handled two cases: [Uganda vs. Fred Kavuma](#) and [Uganda vs. Teddy Szezi Cheeye](#). In the Kavuma case, the accused was sentenced to 5 years in prison and ordered to refund UGX41 million. In the Cheeye case, the accused was sentenced to 10 years in prison and ordered to refund UGX110 million.

<sup>250</sup> [Uganda vs Rose Ngororano and Annalisa Mondon.](#)

<sup>251</sup> The Public Accounts Committee is provided for under Rule 148 of the Rules of Procedure of Parliament. Available at [http://www.parliament.go.ug/index.php?option=com\\_docman&task=cat\\_view&gid=77&Itemid=102](http://www.parliament.go.ug/index.php?option=com_docman&task=cat_view&gid=77&Itemid=102) (accessed on 8/1/2009).

<sup>252</sup> The Rules of Procedure of Parliament Rule 148. Available at <http://www.parliament.go.ug/files/rules%20of%20procedure%20for%20the%20th%20parliament%20of%20uganda.pdf> (accessed on 8/1/ 2009).

### **2.1.9 Local Government Finance Commission**

The Local Government Finance Commission is set up by Article 194 of the Constitution to advise the President on all matters concerning the distribution of revenue between the central government and local governments and also recommend how conditional grants are allocated to each local government. One of the issues this commission is supposed to deal with is equity in allocation of the conditional grants to the various districts. Not all the districts in Uganda are at the same level of development or have the same capacity to generate their own money. This study established in Chapter 4 that some districts reallocated conditional grants for water and sanction to other sectors like health or education. Hence the provision of water suffered.

### **2.1.10 Ad-hoc Initiatives - Commissions of Inquiry**

Occasionally the government sets up commissions of inquiry to address public concerns over alleged breaches of standards of accountability and where the situation is not amenable to normal systems of auditing and investigation.<sup>253</sup> Over the years the government has set up no less than five commissions of inquiry as shown in Box 1 below. Once a commission of inquiry is established to investigate corruption in a particular sector, it is a clear indicator that there is strong suspicion of widespread corruption in that sector. The water sector has not had a commission of inquiry target it yet. This may possibly be an indication that the sector is not one of the most corrupt.

#### **Box 1. Commissions of Inquiry Set Up by the Government of Uganda**

1. Commission of Inquiry into the Conduct of the Police Force
2. Commission of Inquiry into Closure of Banks
3. Commission of Inquiry into Helicopter Purchase
4. Commission of Inquiry into the Alleged Exploitation of DRC's Natural Resources
5. Commission of Inquiry into the Uganda Revenue Authority
6. Judicial Commission of Inquiry into Alleged Mismanagement of Global Fund to Fight AIDS, Tuberculosis, and Malaria in Uganda

Source: *PEAP 2004- 2008*

The use of commissions of inquiry as a tool to fight corruption has been mocked by many because the reports from these commissions are rarely acted on.<sup>254</sup>

### **2.1.11 Accountability Sector**

The Accountability Sector brings together the major oversight agencies. The sector seeks to improve the accountability and responsiveness of the public sector organizations and intends to promote the accountability agenda across all sectors so that the culture of accountability grows and deepens within the public service and outward to the wider community.<sup>255</sup> The membership of the

<sup>253</sup>Government of Uganda. Poverty Eradication Action Plan 2004-2008,131.

<sup>254</sup> J. Cohen. Uganda Confronts Corruption Slowly. Available at <http://www.sciencemag.org/cgi/content/summary/321/5888/522> (accessed on 8/1/2009).

<sup>255</sup>The Republic of Uganda (2009). Accountability Sector Strategic and Investment Plan 2008- 2013 (Final Draft), 6 & 11.

sector includes the Ministry of Finance, Planning and Economic Development; Office of the Auditor General; Inspectorate of Government; Directorate of Ethics and Integrity; Public Procurement and Disposal of Public Assets Authority; Ministry of Public Service - Inspection; Uganda Bureau of Statistics; Uganda Revenue Authority; and representatives of international donors.<sup>256</sup> A secretariat coordinates the activities of the sector. The various oversight agencies meet regularly through the Inter Agency Forum to coordinate and harmonize their efforts to combat corruption. The Accountability Sector is still young and growing and getting the various agencies to work together is no easy task. It requires a lot of consensus and confidence building.<sup>257</sup> Once the Accountability Sector Strategic and Investment Plan is formally adopted, it will form the basis for forging inter-sectoral linkages, including the water sector.

### **2.1.12 Office of the President**

While the President may not have the mandate to investigate and prosecute corruption cases like several of the agencies mentioned, his leadership and commitment is very important. Several reports on corruption speak of the need for political will right from the top in order to fight the vice effectively. In this regard, the Office of the President, with its immense power, is critical in terms of taking the lead in this fight. It is evident that Uganda was able to fight the HIV/AIDS problem with reasonable success due to, among others, the leadership of the President. In that regard, the recent public statements by the President condemning corruption are very welcome.

### **2.1.13 Civil Society**

Apart from strong oversight through Parliament and law enforcement, stemming corruption requires an independent media and a vibrant civil society.<sup>258</sup> The Poverty Eradication Action Plan acknowledges that the government cannot end corruption without the active involvement of the population. The people have both a right and a duty to do what they can to resist corruption.<sup>259</sup> Civil society, therefore, has a vital role in holding government accountable and fighting corruption. While there is a relatively free environment for CSOs to operate, their impact in fighting corruption is rather limited. The handful for CSOs that work for public accountability are making their contribution but it needs to be emboldened by the greater involvement of the people.

The main CSOs in the anti-corruption arena are the Anti Corruption Coalition Uganda (ACCU), the Uganda Debt Network (UDN), and Transparency International – Uganda Chapter. The activities of these NGOs in the last year have served to highlight corruption concerns in the water and sanitation sector. It is essential that this interest is maintained. The risk is that ACCU or Uganda Ethics Network Outreach (UENO) may opt to focus on another sector or theme in 2009 and this would lead to a loss of momentum in respect of taking forward the various anti-corruption initiatives in the WSS sector.

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<sup>256</sup> Ibid p8. This plan is yet to be formally approved by the respective heads of the Accountability Sector institutions.

<sup>257</sup> Interview with Peter Nsubuga, program manager of the Accountability Sector Secretariat, 9/4/2009.

<sup>258</sup> Huguette Labelle, chairperson of Transparency International quoted in, "Persistently high corruption in low-income countries amounts to an ongoing humanitarian disaster". Press release by Transparency International on 29/9/08. Available at [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2008](http://www.transparency.org/policy_research/surveys_indices/cpi/2008) (accessed on 8/1/ 2009).

<sup>259</sup> Government of Uganda. Poverty Eradication Action Plan 2004-2008,132.

The Uganda Water and Sanitation NGO Network is a national network of 150 NGOs and CBOs in the WSS sector in Uganda.<sup>260</sup> UWASNET is an active group and provides useful input to development of policies in the sector. The strength of UWASNET lies in its varied membership, which brings richness to interventions. The network is able to articulate issues arising from the grassroots level due to its CBO membership. As indicated in Chapter 4, one of the recommendations from the Fiduciary Risk Assessment was the need for the involvement of CSOs in developing terms of reference for value-for-money audits. The MWE accepted this recommendation.<sup>261</sup> Allowing CSOs to provide input to a government study is a good practice that should be commended and encouraged.

NGOs can also show good example at national and local government level by demonstrating more efficient and effective service delivery. Some, however, do not want to declare to local governments what their plans and budgets are.<sup>262</sup> While government institutions are required to provide services in an accountable and effective manner, NGOs should also be held to similar standards.

## **2.2 Policy and Legal Framework (National, Regional, and International)**

There are many policies and legal instruments to deal with corruption in Uganda. The primary challenge, however, remains at the implementation level. These policies and laws are at 3 levels: national, regional, and international.

### **2.2.1 National Policies and Laws**

#### **2.2.1.1 The Constitution of Uganda**

The Constitution of Uganda, which is the supreme law of the land, provides that all public offices shall be held in trust for the people and all lawful measures shall be taken to expose, combat and eradicate corruption and abuse or misuse of power by those holding political and other public offices.<sup>263</sup> Corrupt acts are therefore not only criminal but unconstitutional as well.

The Poverty Eradication Action Plan (PEAP) provides an overarching framework to guide public action in eradicating poverty. It outlines the participatory processes underpinning the development of an anti-poverty strategy, provides a poverty diagnosis and presents policy measures, sector plans, costing and a results-oriented policy matrix for sustainable economic growth and poverty reduction over the medium term (5 years 2004-2008).<sup>264</sup> It will soon be replaced by the National Development Plan (NDP).

Four challenges are outlined in the PEAP: restoration of security, dealing with the consequences of conflict and improving regional equity; restoring sustainable growth in the incomes of the poor; human development; and using public

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<sup>260</sup> Uganda Water and Sanitation NGO Network (2008). Members Directory 2007- 2008, 5.

<sup>261</sup> See Page 32, Table 6.

<sup>262</sup> Interview with World Bank official, 28/11/08.

<sup>263</sup> Government of Uganda. The Constitution of Uganda 1995 (as at 15<sup>th</sup> February 2006), Principle XXVI of the National Objectives and Directive Principles of State Policy.

<sup>264</sup> Government of Uganda. Poverty Eradication Action Plan (PEAP) 2004-2008.

resources transparently and efficiently to eradicate poverty. Five pillars underpin the PEAP: economic management; production, competitiveness and incomes; security, conflict resolution and disaster management; good governance; and human development.<sup>265</sup> Each sector of the government such as water and sanitation or justice, law and order is situated/located under each of these pillars. The sectors are, therefore, the first port of call in determining the current state of play in the democratic and good political governance arena. The water sector is nested within pillar 5 while good governance in pillar 4. Pillar 4 on good governance and pillar 5 are consequently of particular relevance to this study. Of course, this is not to say that other pillars of the PEAP and sources are not relevant. Four core priorities underpin pillar 5 of the PEAP: ensuring respect for human rights; pursuing democratization; making government structures affordable, transparent and efficient; and providing a good judicial system.

Good governance and anti-corruption initiatives are featured prominently in the PEAP.<sup>266</sup> In addition, the government promised to take a number of actions to reduce corruption, namely, strengthening monitoring and financial controls, and strengthening the legal framework and codes of conduct.<sup>267</sup> In this regard, several of the new or revised laws discussed below are in fulfillment of this undertaking.

#### **2.2.1.2 National Anti-corruption Strategy**

In addition to the PEAP, there is a national anti-corruption strategy known as the National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Uganda.<sup>268</sup> The strategy's vision speaks of a society that demands quality service, and has a zero tolerance for corruption and a public service with integrity that delivers value-for-money, accountability, and transparency. Five objectives underpin the strategy.

1. Effective political leadership in the fight against corruption
2. Increased public demand for accountability and rejection of corruption
3. Effective enforcement of anti-corruption measures
4. Enhanced compliance and accountability by public service organizations
5. Strengthened implementation of NACS<sup>269</sup>

The strategy is meant to guide government ministries, departments and agencies (MDAs) and local governments in formulating anti-corruption policies and action plans.

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<sup>265</sup> The Government of Uganda. Poverty Eradication Action Plan (PEAP) 2004-2008.

<sup>266</sup> Ibid p115-143.

<sup>267</sup> Ibid p129-133.

<sup>268</sup> Government of Uganda. The National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Uganda 2008 –2013.

<sup>269</sup> See Government of Uganda. The National Strategy to Fight Corruption and Rebuild Ethics and Integrity in Uganda 2008 – 2013.

### **2.2.1.3 The Inspectorate of Government Act**

The Inspectorate of Government Act is yet another anti-corruption law in Uganda. As indicated in Chapter 1 of this study, this law defines corruption in a much broader way than the World Bank. This wide definition has its genesis in the National Integrity Baseline Survey carried out by CIET International in collaboration with the IGG's office in 1998.<sup>270</sup> This survey solicited the perceptions of ordinary Ugandans on what corruption meant to them. A number of respondents indicated that nepotism, embezzlement, and bribery all constituted acts of corruption and hence the adoption of this definition by the IGG's office. Officials in the water sector have been charged under this law with offenses ranging from embezzlement to abuse of office as indicated in Chapter 4.

### **2.2.1.4 The Leadership Code Act**

The Leadership Code Act provides for a minimum standard of behavior and conduct for public leaders. It requires all specified leaders to declare their incomes, assets and liabilities to the Inspector General of Government (IGG). The code seeks integrity, transparency and accountability among the specified leaders and prohibits conduct that is likely to compromise their honesty, impartiality and integrity in their conduct of public affairs and imposes penalties on those who breach it. It also aims to establish an effective enforcement mechanism and to provide for other related matters.<sup>271</sup> The Leadership Code requires the following officials from the MWE to declare their assets and liabilities: the minister, minister of state, permanent secretary, directors and commissioners (heads of departments, divisions and sections).<sup>272</sup> The IGG's report for the period July–December 2008 does not show that any MWE official was investigated for alleged breach of the code.<sup>273</sup>

### **2.2.1.5 Prevention of Corruption Act**

The Prevention of Corruption Act criminalizes acts of corruption.<sup>274</sup> It primarily deals with solicitation and giving of bribes. It is under review and is to be repealed by the Anti-Corruption Bill of 2008, should it become law.

### **2.2.1.6 The Access to Information Act**

The Access to Information Act (2005) is in force and one of its purposes is to protect persons disclosing evidence of contravention of the law, maladministration or corruption in government bodies.<sup>275</sup> Section 44 protects a person who releases information on wrongdoing or information that would lead to a serious threat to health, or safety or the environment.

### **2.2.1.7 The Penal Code Act**

The Penal Code Act, among others, provides for the offences of abuse of office. Several public officials have been charged with this crime. One of the main

<sup>270</sup> Inspectorate of Government. The National Integrity Survey 1998 Baseline Report.

<sup>271</sup> The Leadership Code Act of 2002, Available at <http://www.igg.go.ug/newLeadershipCodeAct.pdf> (accessed on 29/12/ 2008).

<sup>272</sup> The Leadership Code Act of 2002. Second Schedule Part A (political leaders) and Part B (specified leaders).

<sup>273</sup> Inspectorate of Government (2008). Report to Parliament July-December 2008, 48-50. Information on whether a leader has declared his or her assets and liabilities is not publically available.

<sup>274</sup> The Prevention of Corruption Act of 1970 (under review).

<sup>275</sup> The Access to Information Act of 2005.

criticisms of this law is that it did not provide for seizure of the property obtained through corruption. This gap will be filled by the Anti-Corruption Bill 2008, should it become law.

#### **2.2.1.8 The Anti-Corruption Bill**

The Anti-Corruption Bill 2008 was tabled in Parliament in December 2008. The Bill is the result of a review of the Prevention of Corruption Act. The purpose was to make the country's primary anti-corruption law more deterrent and better enforceable. This Bill provides for the effectual prevention of corruption in the public and private sectors, introduces proactive and reactive measures, repeals and replaces the Prevention of Corruption Act and consequently amends the Penal Code Act and the Leadership Code Act. It also enhances the powers of the Inspector General of Government and Director of Public Prosecutions. New procedures and orders are provided for in the Bill, namely, the restraining and confiscation orders. Furthermore, the Bill extends the scope of corruption offences and introduces the concept of illicit enrichment as part of Uganda's domestication of the United Nations Convention against Corruption. This Bill closes off avenues used in the past by perpetrators of corrupt acts. It is important that all the water sector officials get acquainted with this Bill when it becomes law.

#### **2.2.1.9 The Whistleblowers Protection Bill**

A Whistleblowers Protection Bill 2008 has been presented to Parliament by the government. The whistleblower legislation will be yet another instrument to help expose and combat corruption and strengthen the relevant legal framework. The law will seek to protect whistleblowers and witnesses in corruption cases from reprisals, dismissal, harassment, and victimization by the accused persons or institutions. Uganda's history, however, shows the opposite. What is needed, therefore, is more of the will than words<sup>276</sup> The Anti Corruption Coalition Uganda makes the point that laws alone are not the solution but rather the will to fight corruption. Without the will and commitment by all, laws in themselves can not fight corruption.

#### **2.2.1.10 Qui Tam Law**

The Government of Uganda is preparing a Qui Tam law. This law will provide for the possibility of a person bringing an action against an alleged corrupt official to take part of the proceedings in the event of a conviction. This process is used in the United States and it needs to be noted that Qui Tam cases can be very expensive and lengthy. It thus remains to be seen whether this law will be effective once it is available.

#### **2.2.1.11 Anti-Money Laundering Bill**

An Anti-Money Laundering Bill, 2005, is under review. This proposed law aims at combating the emerging crime of money laundering. Most proceeds from corruption are laundered and therefore this law would have the potential to deal with the problem.

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<sup>276</sup> Anti Corruption Coalition Uganda (2008). Whistleblower Bill: Do We Need More Legislation or the Will? See [http://www.anticorruption.or.ug/index.php?option=com\\_content&view=article&id=7:whistleblower-bill-do-we-need-more-legislation-or-the-will&catid=6:articles&Itemid=2](http://www.anticorruption.or.ug/index.php?option=com_content&view=article&id=7:whistleblower-bill-do-we-need-more-legislation-or-the-will&catid=6:articles&Itemid=2) (accessed on 8/1/2009).

It is evident that Uganda has many anti-corruption laws. Comparatively, says the Anti Corruption Coalition Uganda, the country's legal framework ranks among the best in Africa with the Global Integrity Report putting it at 90%.<sup>277</sup> However, there is still a long way to go regarding implementation and the capacity of the various oversight agencies to execute their mandate.

## 2.2.2 Regional

At the regional level, the African Union and its member states have adopted a number of anti-corruption treaties.

### 2.2.2.1 African Union Convention on Preventing and Combating Corruption

The African Union has a Convention on Preventing and Combating Corruption<sup>278</sup> that Uganda has signed and ratified.<sup>279</sup> This means that Uganda is under obligation to domesticate the provisions of the African Convention. The states party to the Convention, Uganda inclusive, recognize the need to address the root causes of corruption on the continent and are convinced of the need to formulate and pursue, as a matter of priority, a common penal policy aimed at protecting the society against corruption, including the adoption of appropriate legislative and adequate preventive measures.<sup>280</sup> The Convention makes bold attempts to define corruption by referring to acts of corruption in Article 4. It is noteworthy that the Convention considers both giving and receiving gifts or money as acts of corruption. It also lists influence-peddling, diversion of money, omission to perform duty, and concealment of property as further acts of corruption.<sup>281</sup>

The Convention goes on to provide for access to information, funding of political parties, the involvement of the private sector, civil society and the media in the fight against corruption. While it may be premature to enter into an analysis of this Convention as it only came into force in 2006, there is ample evidence to suggest that several African states that are party to it are riddled with corruption. The Corruption Perception Index of Transparency International is one such testimonial. It is interesting to note that Botswana, which has not ratified the Convention, is ranked the least corrupt African country.<sup>282</sup> This shows that what is needed to fight corruption is not ratification of instruments but rather commitment.

The African Convention is complemented by initiatives within the East African Community and East African Customs Union, the New Partnership for Africa's

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<sup>277</sup> Anti Corruption Coalition Uganda see note 127 above. Available at <http://www.anticorruption.or.ug/index.php?option=com> (accessed on 24/2/ 2009).

<sup>278</sup> The African Union Convention on Preventing and Combating Corruption 2006, see note 15 above.

<sup>279</sup> Uganda ratified the African Union Convention on Preventing and Combating Corruption on 30/8/04. See <http://www.africa-union.org/root/au/Documents/Treaties/List/African%20Convention%20on%20Combating%20Corruption.pdf> (accessed on 29/12/2009).

<sup>280</sup> Ibid preamble.

<sup>281</sup> Ibid Article 4.

<sup>282</sup> Transparency International. Corruption Perception Index, see notes 19 and 20 above.

Development (NEPAD), and the East and Southern African Anti-Money Laundering Group (ESAAMLG).

### **2.2.3 International Initiatives**

At the global level there is the United Nations Convention against Corruption.<sup>283</sup> Again, Uganda is a signatory to this Convention.<sup>284</sup> Its aims are: to promote and strengthen measures to prevent and combat corruption more efficiently and effectively; to promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including asset recovery; and to promote integrity, accountability and proper management of public affairs and public property. The Convention has six themes: prevention, criminal law enforcement, international legal cooperation, asset recovery, technical assistance, and monitoring.<sup>285</sup> Several other international instruments have been adopted by the UN which deal with anti-corruption issues and these are shown in Table 2 of Chapter 2.

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<sup>283</sup> United Nations Convention against Corruption, see note 18 above.

<sup>284</sup> Uganda ratified the Convention on 9/9/04. See United Nations Convention against Corruption signature and ratification status available at <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html> (accessed on 30/12/2008).

<sup>285</sup> The Convention contributes to the above general areas by providing as outlined broadly below.

- Criminalization: requires governments to criminalize the bribing of their own and foreign public officials and other corruption-related crimes such as embezzlement and money laundering.
- Prevention: requires governments to take a number of measures to prevent corruption, including those that promote integrity among their public officials and increase the participation of civil society in the fight against corruption.
- International cooperation, including with respect to asset recovery: provides a practical channel for governments to work together to extradite persons and exchange evidence regarding corruption offenses, and recover assets illicitly acquired by corrupt public officials.
- Cooperation in implementation: creates a vehicle for governments to monitor implementation of the convention and to share expertise and provide technical assistance relating to their anticorruption efforts.

### **Annex 3. Overview of the Water Sector in Uganda**

This annex is devoted to examining the key institutions, policies and laws in the water and sanitation sector in Uganda. The sector's 4 sub-sectors: Rural Water Supply and Sanitation (RWSS), Urban Water Supply and Sanitation (UWSS), Water for Production (WfP), and Water Resources Management (WRM) are outlined.<sup>286</sup> In addition, the various anti-corruption measures in the sector are listed. The extent to which the water sector interfaces with the national, regional, and international mechanisms named in Chapter 2 is discussed.

#### **3.1 Rural Water Supply and Sanitation**

The Rural Water Supply and Sanitation (RWSS) Sub-sector covers all rural communities with populations up to 5,000. The 2002 population census estimated the rural population at 21.04 million rising to 26.2 million by 2006 and 32.75 million by 2015. The sub-sector considers two divisions of communities: villages with populations up to 1,500; and rural growth centers (RGC) with populations between 1,500 and 5,000. Both divisions of communities number approximately 850. This sub-sector is vital because it deals with provision of water to the majority of Ugandans (more than 26.2 million) who also happen to live in the rural areas. Due to limited human and financial resources, however, access to improved water supplies in the rural area stands at 63% with access ranges as low as 12% in Kaabong. The Ministry of Water and Environment (MWE) says that approximately half of the districts in Uganda are still below the national average of 63%.<sup>287</sup>

#### **3.2 Urban Water Supply and Sanitation**

The Urban Water Supply and Sanitation Sub-sector is made up of large towns managed by the National Water and Sewerage Corporation (NWSC) and small towns. Large towns are classified as those gazetted for operation by NWSC, which provides water and sewerage services in the 23 urban water centers.<sup>288</sup> And small towns are all the gazetted municipalities, town councils and town boards outside the jurisdiction of NWSC. In 2007/8, there were 160 small towns classified into 1 municipality (Moroto), 79 town councils, and 80 town boards.

#### **3.3 Water for Production**

Water for Production refers to development of water resources for productive use in agriculture (crop irrigation, livestock and aquaculture), rural industries, wildlife, recreation, hydropower generation, transport, and other commercial entities. Regarding water for agricultural production, the MWE is the lead agency

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<sup>286</sup> Ministry of Water and Environment, see note 2 above.6. Four water and sanitation sector reform studies were undertaken between 1999 and 2005 and completed at different times. Consequently, the respective sub-sector investment plans were not coordinated. This led to fragmentation of sector investments. The sector has continued to evolve since the sub-sector investment plans were completed, including the creation of many more district local governments (from 36 in 2001 to 80 in 2008), changes to the MWE structure and a new policy of bulk water transfer for multi-purpose use. As a result a process to review, update and consolidate the sub-sector investment plans and align them with the current institutional set-up is being undertaken. See Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 6.

<sup>287</sup> Ibid pii.

<sup>288</sup> These are Kampala, Jinja/Njeru, Entebbe, Tororo, Mbale, Masaka, Mbarara, Gulu, Lira, Fort Portal, Kasese, Kabale, Arua, Soroti, Hoima, Bushenyi/Ishaka, Mukono, Lugazi, Iganga, Mubende, Iganga, Malaba, Masindi and Kabermaido.

for water for production and development off-farm. The Ministry of Agriculture, Animal Industry and Fisheries is the lead agency for water use and management for agricultural development on-farm. The Ministry of Tourism, Trade and Industry's mandate covers water use and management in industries, commerce, wildlife and tourism. The mandate of the Ministry of Energy and Mineral Development is water use and management for hydropower generation.

### **3.4 Water Resources Management**

The Water Resources Management (WRM) Sub-sector is responsible for the integrated and sustainable management of water resources so as to secure and provide water of adequate quantity and quality for all social and economic needs for the present and future generations. It does this through monitoring and assessment of the quantity and quality of water resources; storing, processing and disseminating water resources data and information to users; providing advice on management of trans-boundary water resources; regulating water use and discharge of wastewater into water bodies through issuing of water permits and providing analytical services for water quality analysis. The WRM functions are carried out at the central government level although decentralization of these functions to catchments has been initiated. This department is severely understaffed and as result cannot effectively monitor and regulate water resource management.

### **3.5 Key Institutions**

The water sector in Uganda is made up of a number of institutions that participate directly in the provision of water and sanitation services at the national, district, and community levels.<sup>289</sup>

#### **Water Policy Committee**

At the national level is the Water Policy Committee (WPC). It is an institutional framework for water resources management and plays an essential role in directing the development and management of Uganda's water resources across sectors and development interests. The WPC is provided for in the Water Act<sup>290</sup> and is chaired by the permanent secretary of the Ministry of Water and Environment. Key sector heads in the area of water resource management are members. According to the ministry, the WPC was not very active until 2 years ago.<sup>291</sup>

#### **The Ministry of Water and Environment (MWE)**

This ministry's mission is "to promote and ensure the rational and sustainable utilization, development and effective management of water and environment resources for socio-economic development of the country". The ministry has three directorates: Directorate of Water Resources Management (DWRM), Directorate of Water Development (DWD), and Directorate of Environmental Affairs (DEA).

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<sup>289</sup> For more details about the institutional set up, see Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report.

<sup>290</sup> The Water Act (Cap 152), Article 2.

<sup>291</sup> Interview with MWE official, 29/4/09.

The MWE is responsible for setting national policies and standards, managing and regulating water resources, and determining priorities for water development and management. It also monitors and evaluates sector development programs to keep track of their performance, efficiency and effectiveness in service delivery. In this regard 10 golden indicators have been developed which are monitored and evaluated regularly. The golden indicators are outlined in Annex 4. The MWE, however, is faced with an acute shortage of staff which severely hampers its ability to monitor and regulate the sector.<sup>292</sup> In financial year 2007/2008, the ministry spent about UGX 139,806,484,199 in procurement.<sup>293</sup> In the same financial year UGX 41.2 billion was released for the District Water and Sanitation Development Conditional Grant.<sup>294</sup> It is clear from these figures that large amounts of money are spent on procurement both at central and local government level and taking into account that it has been established in this study that procurement is one of the key risk areas, this is cause for concern.

The Directorate of Water Resources Management (DWRM) is responsible for managing, monitoring and regulating water resources through issuing water use, abstraction, and wastewater discharge permits. The directorate has three departments, namely, the Department of Water Resources Monitoring and Assessments, the Department of Water Resources Regulation, and the Department of Water Quality Management. The DWRM was established in July 2007 and the process of filling the top positions is almost complete.

The Directorate of Water Development (DWD) is responsible for providing overall technical oversight for the planning, implementation, and supervision of the delivery of urban and rural water and sanitation services across the country, including water for production. It comprises three departments: Rural Water Supply and Sanitation; Urban Water Supply and Sanitation; and Water for Production.

### **The Ministry of Health**

A number of other ministries have important roles in the water and sanitation sector. The Ministry of Health is responsible for hygiene and sanitation promotion for households through the Environmental Health Division.

### **The Ministry of Education and Sports**

The Ministry of Education and Sports is responsible for hygiene education and provision of sanitation facilities in primary schools. It also promotes hand-washing after latrine-use in the schools.

### **The Ministry of Gender, Labour and Social Development**

The Ministry of Gender, Labour and Social Development is responsible for gender responsiveness and community development/mobilisation. It assists the sector in gender responsive policy development, and supports districts to build staff capacity to carry out sector programs.

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<sup>292</sup> Interview with MWE official, 1/12/08.

<sup>293</sup> Ministry of Water and Environment procurement office.

<sup>294</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 36.

### **The Ministry of Agriculture, Animal Industry and Fisheries**

The Ministry of Agriculture, Animal Industry and Fisheries spearheads agricultural development. This includes the on-farm use and management of water for production (irrigation, animal production, and aquaculture).

### **The Ministry of Finance, Planning and Economic Development**

The Ministry of Finance, Planning and Economic Development (MoFPED), mobilises money, allocates it to sectors and coordinates development partner inputs. MoFPED reviews sector plans as a basis for allocation and release of money, and reports on compliance with sector and national objectives.

### **National Water and Sewerage Corporation**

The National Water and Sewerage Corporation (NWSC) is a parastatal that operates and provides water and sewerage services for 23 large urban centers across the country. The NWSC aims at expanding service coverage, improving efficiency in service delivery, and increasing labor productivity. Key among its objectives is to plough back generated surpluses for infrastructure improvements and new investments.

In line with the government's procurement regulations, the Corporation has a procurement and disposal unit that prepares all procurement-related documents like the calls for proposals. A contracts committee evaluates the bids received and awards contracts.<sup>295</sup>

### **Donor Support**

The WSS sector has received substantial support from development partners for more than a decade.<sup>296</sup> In financial year 2007/08, for example, the MWE reports that of the total budget allocation of UGX130.5 billion, 68% was from local resources while the rest was from donors.<sup>297</sup> The development partners include the African Development Bank (AfDB), Austria, Arab Bank for Economic Development in Africa (BADEA), Danish International Development Agency (DANIDA), Department for International Development of the United Kingdom (DfID), European Union (EU), France, Germany, Japanese International Cooperation Agency (JICA), United Nations Children's Fund (UNICEF), and the Swedish International Development Cooperation Agency (Sida). Sida, DANIDA, Austria, DfID, and the German Technical Cooperation (GTZ) channeled their money through the Joint Partnership Fund (JPF) that was established in 2003. Initially, the JPF was conceived as a mechanism for harmonizing Danish and Swedish support to the sector but was then developed into a broader instrument supporting coordination amongst development partners as well as providing a single channel for backing capacity development.<sup>298</sup> Use of the JPF allowed the donors to monitor their resources through approval of work plans and

<sup>295</sup> Interview with NWSC official, 30/4/9.

<sup>296</sup> Republic of Uganda (2007). Joint Water and Sanitation Sector Programme Support (2008 –2012) Programme Document, July 2007, ii.

<sup>297</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 23. The budget allocation for each sub-sector was 42% for rural water supply and sanitation, 38% for urban supply and sanitation, 11% for water for production, 6% for water resources management, and 3% for institution support.

<sup>298</sup> Republic of Uganda (2007). Joint Water and Sanitation Sector Programme Support (2008 – 2012) Programme Document, July 2007, ii.

commissioning of audits.<sup>299</sup> In 2006, as the joint Danish and Swedish support phase was drawing to a close, the JPF was turned into the Joint Water and Sanitation Sector Program Support (JWSSPS).<sup>300</sup>

The JWSSPS is supported by the Government of Uganda, the AfDB, Austria, DANIDA, DfID, EU, Germany, and Sida.<sup>301</sup> The JWSSPS aims to support the water and sanitation sector to improve its fiscal and physical effectiveness so as to efficiently achieve its targets and contribute to poverty eradication and better health for Ugandans.<sup>302</sup> The expected outcome of this program will be a significant contribution to the achievement of sector targets as set out in the performance measurement framework including increased cost-effectiveness (lower unit cost for quality services and hence more coverage per investment); increased functionality of facilities; improved sub-sector allocations leading to more equitable distribution of services; increased private sector involvement (plus related leveraging of additional resources and higher efficiencies); improved environmental performance especially related to the adoption of integrated WRM and, potentially increased budget allocations to the sector as it demonstrates efficiency and cost effectiveness in reducing poverty.<sup>303</sup>

Development partners like the World Bank and DfID provide general budget support. General budget support refers to financial support given directly to the government budget without earmarking (attaching the money to specific sectors and activities) but accompanied by dialogue with the Government of Uganda around the implementation of the Poverty Eradication Action Plan (PEAP).<sup>304</sup> For their part, DANIDA and Sida provide sector budget support. Sector budget support refers to financial support channeled through the Government of Uganda's budget that is notionally earmarked to a specific sector or sub-sector. In the water and sanitation sector, sector budget support includes support via the Consolidated Fund and Poverty Action Fund to the district water and sanitation conditional grant and also to the water ministry at the central level.<sup>305</sup>

Budget and sector support have many advantages. Budget support is the first preferred mode of funding under the Partnership Principles of the Government of Uganda.<sup>306</sup> The main advantage of budget support is that it allows for local ownership of programs supported and also reduces transaction costs.

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<sup>299</sup> This was revealed by a member of the Water Sector Development Partner Group in a meeting on 2/12/08.

<sup>300</sup> Republic of Uganda (2007): Joint Water and Sanitation Sector Programme Support (2008 – 2012) Programme Document, July 2007.

<sup>301</sup> Ibid p.ii.

<sup>302</sup> Ibid p.ii.

<sup>303</sup> Ibid p.iii.

<sup>304</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, xvii.

<sup>305</sup> Ibid p.xvii.

<sup>306</sup> Ministry of Finance, Planning and Economic Development, September 2003. Partnership Principles between Government of Uganda and its Development Partners. The Poverty Eradication Action Plan (PEAP) identifies the development objectives for the Government of Uganda and its development partners. Effectively linking donor support with the PEAP is the main rationale for setting up these partner principles. These principles apply to public assistance. The principles place emphasis on Government of Uganda owning the budget to which the donors channel their assistance.

On the other hand, budget support presents its own challenges. It means that the development partners rely on the government systems and this is risky. Budget support does not afford the same level of control and hands-on supervision like the Joint Partnership Fund. Other donors use the project approach in which they keep a close eye through regular monitoring and audits of their money. Some of the development partners acknowledge that putting money into budget support was like putting money into a black hole.<sup>307</sup>

Austria and the EU provide project support. Project support refers to assistance that is not channeled through the government systems but which can be on budget (within the ceiling) or off budget (outside the budget).<sup>308</sup>

### **3.5.1 District Level**

Local governments (districts, town councils, sub-counties) are empowered by the Local Governments Act (1997) to provide water services. They receive funding from the centre in the form of a conditional grant and can also find additional money locally. Local governments, in consultation with the water ministry, appoint and manage private operators for urban piped water schemes that are outside the jurisdiction of the NWSC. Districts, as shown in Chapter 4, are accused of reallocating conditional grants meant for water and sanitation to other sectors.

A restructuring exercise in 2007 recommended that the established posts in the district water office should be the district water officer, assistant district water officer, county water officers, and borehole technician. This led to problems in implementation and follow up of community management and sanitation activities as district water officers were overwhelmed with activities because not all the positions are filled. The district community development department and the health directorate were supposed to fill the staff gap but the high demand for their services by the agriculture and health sectors complicated the situation. The MWE consequently advised districts to recruit staff on contract basis. Some districts seconded staff from other departments. Even then, there are still staffing gaps in many districts. This has undermined efforts to effectively implement and coordinate water and sanitation activities.<sup>309</sup>

The current drive by the MWE to make it possible for districts to engage NGOs in mobilization for WSS activities is intended to address this challenge. A set of guidelines to be followed by districts when procuring services of NGOs has been approved by the Public Procurement and Disposal of Public Assets Authority (PPDA). Districts are being encouraged to engage NGOs that have the expertise to carry out community mobilization, training, and hygiene and sanitation promotion activities.<sup>310</sup> This would encourage citizen participation and empowerment thereby enhancing good governance in the sector. A World Bank

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<sup>307</sup> Interview with development partner, December 2008.

<sup>308</sup> Republic of Uganda (2007). Joint Water and Sanitation Sector Programme Support (2008 – 2012) Programme Document, July 2007, xvii.

<sup>309</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 10.

<sup>310</sup> Ibid p10.

official, however, cautions that there is a risk of politicians setting up briefcase NGOs to profiteer from the scheme.<sup>311</sup>

### **3.5.2 Private Sector**

Private sector firms undertake design and construction in the sector under contract from local and central governments. Private hand pump mechanics and scheme attendants provide maintenance services to water users in rural and peri-urban areas. Private operators manage piped water services in small towns and rural growth centers.

### **3.5.3 Community Level**

Communities are responsible for demanding, planning, making a cash contribution to capital cost, and operating and maintaining rural water supply and sanitation facilities. A water user committee (WUC), which is sometimes referred to as a water and sanitation committee (WSC), should ideally be established at each water point. WSCs are vital in monitoring the construction and maintenance of water points. However some of the members of WSCs engage in corrupt acts like demanding money for water over and above the small fee they are supposed to collect for operation and maintenance (O&M).<sup>312</sup>

### **3.5.4 Sector Coordination**

The Water and Sanitation Sector Working Group (WSSWG) provides policy and technical guidance for the sector. The WSSWG is made up of representatives from the ministries of water; health; education; local government; finance; plus the NWSC; development partners; NGOs (represented by UWASNET) and local governments (to be represented by Uganda Local Governments Association or ULGA). The WSSWG has two sub-sector working groups responsible for water for production, and for sanitation. In July 2008, however, the WSSWG was merged with the Environment and Natural Resources Working Group (ENRWG) to form the Water and Environment Sector Working Group (WESWG). The challenge, nonetheless, lies in implementing the agenda because of a series of factors discussed in this study.

At district level, district water and sanitation coordination committees (DWSCCs) have been established in most districts. The DWSCC membership consists of administrative and political leaders, technocrats and NGO/CBO representatives at district level. The role of these committees is to oversee the carrying out of water and sanitation programs, strengthening of collaboration and coordination with other sectors (like health, education, social development, and agriculture) and other players (private sector, NGOs and CBOs, and civil society).

According to the MWE, 95% of the districts have formed DWSCCs.<sup>313</sup> The districts that have not formed the committees are Masaka, Amuru, Pader and Oyam. Districts with functional committees such as Jinja, Iganga, Amuria, Kabarole and Isingiro have registered progress in harmonization of approaches

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<sup>311</sup> Interview with World Bank official, 29/4/09.

<sup>312</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 11.

<sup>313</sup> Ministry of Water and Environment (2008). Water and Sanitation Sector Performance Report, 10.

and in joint planning and implementation of activities.<sup>314</sup> In Northern Uganda there is hesitation regarding the formation of DWSCCs because they already have a WASH Cluster that convenes monthly. Seven districts with DWSCCs did not meet in FY 2007/08. They are Hoima, Gulu, Nakasongola, Kiboga, Wakiso, Mpigi and Kayunga.<sup>315</sup>

NGOs and CBOs are active in the provision of WSS services as well as advocacy and lobbying. There are more than 200 NGOs and CBOs currently involved in water and sanitation activities in Uganda.<sup>316</sup> Approximately 150 NGOs are members of UWASNET.<sup>317</sup> There is no doubt that NGOs and CBOs play an important role in ensuring that there is good governance and accountability in the sector.

The Sector Wide Approach (SWAp) framework adopted in September 2002 is a mechanism where the government, civil society, and development partners support a single policy, development plan and expenditure program under the government's leadership and follows a common approach. It deemphasizes donor-specific project approaches but promotes funding for the sector through general, sector-earmarked budget support or through basket funding. Rural Water and Sanitation is the most advanced sub-sector in terms of SWAp implementation. As already indicated, budget support while in principle is a welcome modality in so far as it promotes local ownership and long term sustainability, it also subjects development assistance to the weak fiduciary systems of the government.

### **3.6 Key Policies, Laws**

As indicated in Chapter 2, the Government of Uganda established the Poverty Eradication Action Plan as a national framework for poverty eradication. The PEAP, first prepared in 1997 and revised in 2000 and 2004, has adopted a multi-sectoral approach, recognizing the multi-dimensional nature of poverty and linkages between influencing factors. The PEAP objectives are being addressed through various programs including water and sanitation. In PEAP 2004 the water and sanitation sector falls under two pillars.

- Pillar 2: Enhancing production, competitiveness and incomes (includes water for production and water resources management).
- Pillar 5: Human Development (includes rural and urban water supply and sanitation).

The PEAP 2004 was originally set to expire at the end of June 2008 but was extended for one year. The PEAP has been evaluated and results are currently being fed into the revised PEAP, which will be called the National Development Plan (NDP). The overall objective of the NDP is wealth creation or prosperity-for-all.

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<sup>314</sup> Ibid p10.

<sup>315</sup> Ibid p10.

The government policy objectives for water resources management, domestic water supply and sanitation, and water for production respectively are listed below.

- (i) To manage and develop the water resources of Uganda in an integrated and sustainable manner, so as to secure and provide water of adequate quantity and quality for all social and economic needs of the present and future generations with the full participation of all stakeholders. (Ministry of Water, Lands and Environment, 1999).
- (ii) To provide "sustainable provision of safe water within easy reach and hygienic sanitation facilities, based on management responsibility and ownership by the users, to 77% of the population in rural areas and 100% of the urban population by the year 2015 with an 80%-90% effective use and functionality of facilities." (Ministry of Water, Lands and Environment, 2004a). This is more ambitious than the Millennium Development Goal (MDG) which aims to halve the percentage of people without access to safe water by 2015 in Uganda.
- (iii) Promote development of water supply for agricultural production in order to modernize agriculture and mitigate effects of climatic variations on rain fed agriculture. (Ministry of Water, Lands and Environment, 1999).

The government has come up with several policies and laws that regulate the water sector and have a link to fighting corruption in the same sector. In Chapter 3, reference was made to the Constitution of Uganda. The Constitution requires all public offices to take measures to expose, combat, and eradicate corruption and abuse or misuse of power by those holding political and other public offices.<sup>318</sup> It therefore follows that public officials in the water sector are constitutionally obliged to fight and eradicate corruption.

The principal laws in the water sector are The Water Act (1995)<sup>319</sup> and accompanying regulations.<sup>320</sup> The full list of laws that regulate the water sector is found in Chapter 2. The Water Act provides for the use, protection, and management of water resources and supply; the constitution of water and sewerage authorities; and the devolution of water supply and sewerage undertakings.<sup>321</sup> The Act also regulates a range of areas such as rights in water and water management; water resource planning; revision, variation and cancellation of water permits; waste discharge permits; construction of water works; and trade waste agreements.<sup>322</sup> The law further bestows the regulatory function on the water ministry. Due to limited human and financial resources,

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<sup>318</sup> Government of Uganda. The Constitution of Uganda 1995 (as at 15<sup>th</sup> February 2006), Principle XXVI of the National Objectives and Directive Principles of State Policy.

<sup>319</sup> The Water Act Cap 152.

<sup>320</sup> Water Resources Regulations (1998), Waste Discharge Regulations (1998), the Water Supply Regulations (1999), Sewerage Regulations (1999).

<sup>321</sup> The Water Act Cap 152.

<sup>322</sup> Ibid.

however, the ministry is unable to effectively carry out its functions as highlighted in Chapter 4.

An African Development Bank (AfDB) study on water governance observes that “in Uganda for example, the government has developed and implemented policies and an institutional framework that provides clarity and separation of functional roles and responsibilities with minimum overlap, gaps and duplication. Service provision and management is undertaken at the lowest appropriate level and procurement has been devolved to district levels, accompanied by regular audit capacity building, follow-up monitoring and enforcement of findings, and feedback for learning lessons.”<sup>323</sup> The AfDB study further praises Uganda’s Water Action Plan for being based on internationally agreed principles and leading to empowerment at local, regional and international levels.<sup>324</sup> Uganda, and the MWE in particular, deserves praise for having such robust and effective polices. However, while there is no doubt that Uganda has taken significant strides in developing institutions and policies like the National Water Policy and the Water Action Plan, there is still some way to go to address issues of governance as discussed in this study.

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<sup>323</sup> African Development Bank (2008). AfDB Study on Water Sector Governance, 2-11.

<sup>324</sup> The report states that “the first milestone in Uganda’s Intergrated Water Resources Managment (IWRM) process was the development of the Water Action Plan (WAP) – the first of its kind following the internationally agreed principles from the UN Conference on Environment and Development in Rio de Janeiro in 1992. The WAP outlined a framework for water resources management based on identification of the key water resources issues set against the background of gaps and constraints in the enabling environment, the institutional roles and the management instruments. The action plan assisted the development of the water resources policy and the legislative framework, defined short term and long-term roles and responsibilities of the involved institutions and assessed their needs for capacities, capabilities and management instruments. Cross-sectoral aspects were dealt with in a committee with representatives from a number of relevant ministries, from districts, from water services providers and from the private sector. A number of actions were programmed all aiming at supporting the overall policies and strategies. Over the last ten years the IWRM framework has been built up to a degree where Uganda has asserted its role in the Nile Basin, where a consistent policy and legislation provides the guidance and rules for priorities of water use, allocation and wastewater discharge and where stakeholder participation and decentralization provides local level involvement. The identified programme activities in the Water Action Plan 1994 has provided the road map for this development which has resulted, among other things, in empowerment both at local, regional and international levels.”

## Annex 4. Golden Indicators of the Water Sector

Performance Theme	Golden Indicator
1. Access/Use – Water	% of people within 1.5km (rural) and 0.2km (urban) of an improved water source
2. Functionality	% of improved water sources that are functional at time of spot-check
3. Per Capita Investment Cost	Average cost per beneficiary of new water and sanitation schemes (US\$)
4.. Sanitation	% of people with access to improved Sanitation
5. Water Quality	% of water samples taken at the point of water collection, waste discharge point that comply with national standards
6. Quantity of Water	% increase in cumulative storage capacity of water for Production
7. Equity	Mean sub-county deviation from the district average in persons per improved water point
8. Handwashing.	% of people with access to (and using) hand-washing facilities
9. Management	% of water points with actively functioning Water & Sanitation Committees/ Boards
10. Gender	% of Water User Committees/Water Boards with women holding key positions

Source: *Ministry of Water and the Environment*

## Annex 5. MWE Action Plan Progress in Implementation

Issue	Proposed Remedy	Progress as of 2007/08
1. Communities / beneficiaries are not fully aware of all funds released for water and sanitation from the centre to district, and from district to sub-counties.	Enforce the mandatory public notices that are in the sector guidelines. Radio Announcements	Mandatory notice included in Sector guidelines. 30% of the sample of 16 districts visited put public notices at sub-county level.
2. The allocation formula used by centre in allocating resources between districts is not clearly understood by all partners and this raises suspicions about rationale and equity.	Demystify the allocation formula by developing and publicizing the criteria.	New allocation formula based on Sub-county coverage developed and commended by Local Government Finance Commission. Formula was used in allocation of District Water and Sanitation Conditional Grant (DWSCG) for 2008/09FY.
3. Allocation of resources between sub-sectors is not consistent with sector priorities and raises queries about equity and rationale (e.g. only 30% of the sector funding goes to rural water supplies and sanitation where 80% of the population live).	Set the sector priorities and make them clear to all every year Make the preparation of the Medium Term Budget Framework (MTBF) paper participatory and all inclusive, and Transparent. Ring-fence allocations per sector undertakings [LGs and North] irrespective of budget cuts.	New sector allocations between sub-sectors uses the SIM. Preparation of the MTBF paper is highly participatory, inclusive, and Transparent Water Supply Development Facility (WSDF) – Northern branch started to meet extra needs for piped water and sanitation systems in Northern Uganda.
4. The choice criteria for investment in small towns (STs) and rural growth centers (RGCs) is not clear and raises queries about equity and political interference.	Publicize the list for STs and RGCs to be developed clearly indicating when each comes on board for investment and how they were selected & prioritized. Develop and publicize criteria for accessing the RGCs Fund under the Southwestern Towns Water and Sanitation Project (SWTWSP) and the priority list of RGCs/towns to be funded.	Lists developed and disseminated by Urban Water and Sanitation Department (UWSD) and Rural Water and Sanitation Department (RWSD), and further shared with the Local Government Finance Commission (LGFC).  Criteria developed by WSDF and shared out with benefiting local governments.

## Annex 5. MWE Action Plan Progress in Implementation - continued

Issue	Proposed Remedy	Progress as of 2007/08
5. Criteria for bringing new projects on board is not clear and may be inconsistent with sector priorities; this breeds inequity / non-transparency in allocation of resources	Develop sector priorities and ensure that new projects conform to these priorities Set a limit for per capita investment costs so as to enhance value for money out of every available shilling.	Sector finance Thematic Team has developed a criteria for vetting new projects and proposals. Every proposal is vetted by Sector Finance Thematic Team (SFTT) before submission to Water and Sanitation Sector Working Group (WSSWG) for approval.
6. Audit reports [SIDA, JPF] indicate weaknesses in controls and responsibility by management	Process action plan developed and regularly maintained Mainstream process action plan into top management agenda of DWD [management and administrative aspects]	Joint Partnership Fund (JPF) Manual developed, approved and strictly adhered to.
Recommendations from VFM / Tracking studies		
7. Procurement Responsibility	Permanent Secretary (PS), on recommendation of the Contracts Committee, should, within the Procurement Act, 2003, delegate, to User Departments, specific functions that can best be handled by them.	Micro-procurements under UGX 2 million (GoU & JPF) delegated to user departments.
8. Procurement Planning	User Departments should forward their Procurement Plans to the Procurement and Disposal Unit (PDU), within agreed deadlines the PDU to consolidate to enable and develop an overall MWE Annual Procurement Plan.	This is a government regulation. MWE is now generally compliant. Procurement plan formats have been standardized (especially to align projects and the JPF) to facilitate consolidation
9. Procurement & Contract Management Audits	MWE to plan and carry out an independent Procurement Audit and Contract Management Audit, on an Annual Basis.	Procurement Audits (including contract management) is the responsibility of PPDA and is already carried out on sample basis

## Annex 5. MWE Action Plan Progress in Implementation - continued

Issue	Proposed Remedy	Progress as of 2007/08
10. Community Sensitization	The Central Government should intensify the community mobilization aspects of the service delivery through design and development of an Integrated Rural Water and Sanitation IEC Strategy. The IEC Strategy to include (a) monitorable variables and (b) milestones to be reached before construction commences.	The sector already has tools for community sensitization/mobilization both for UWS and RWS covering pre-construction to post-construction. E.g., under the DWSCG up to 12% may be used for software. The WfP JPF component has developed participatory tools for the sustainable development of facilities.
11. DWD Oversight	DWD to develop and Integrate M&E Supervisional System for all Rural Water Sector Projects (completed and on-going). This, in particular, to apply to TSU's.	TSUs are part of DWD; systems in place already: TSUs attend monthly meetings at DWD, and inter-district meetings are now held twice/year for each TSU's districts, where both District and Centre personnel discuss issues. Strengthened supervision is part of the new support strategy of TSUs. Additional staff were contracted to further strengthen coordination of TSUs.

## Annex 6. Corruption Risk Map for the WSS Sector and a Prioritized Anti-corruption Action Plan

The main findings of this study are reflected in the risk maps below, at the macro; pillars of integrity; and sectoral, institutional and project levels.

**Table 1. A Corruption Risk Map of the WSS Sector: Macro Perspectives**

Category	Components	Status	Corruption Risk(s)	Comments/Suggestions
Overall National Integrity Perspective	Corruption Perception Index (CPI)	CPI = 2.6 out of 10. Uganda is ranked 133 out of 180 countries. <sup>325</sup>	Score indicates the existence of rampant and chronic corruption.	The best country scored 9.3 and the worst 1.0. Botswana, the best country in Africa, scored 5.6 and was ranked 36.  Uganda has scored less than 3 over the last three years.
	National Integrity Survey 2008 (NIS-III)	Most prevalent form of corruption across the whole country is bribery (66%), largely attributed to greed (69.4%).	In the WSS sector, bribery can influence contracts award as well as contract management (e.g. through certification of substandard work). Bribery can also play a major role in 'petty' corruption.	Greed has replaced low salary as reason for corruption as stated in the NIS-I (1998).

<sup>325</sup> Transparency International, 2009. Corruption Perception Index 2008.

**Table 2. A Corruption Risk Map of the WSS Sector: Institutional Pillars of National Integrity**

Category	Components	Status	Corruption Risk(s) and/or Constraints in Addressing Corruption Risk	Comments
Institutional Pillars of National Integrity	<b>I – Executive Functions</b>			
	The Executive (Office of the President and Government Ministries)	Overall government of the country.	Corrupt use of public resources in exchange for electoral support; political interference at all government levels; lack of political will to fight corruption.	Water projects are initiated/allocated based on political rather than technical considerations.
	<b>II – The Legislative and Legal Framework</b>			
	Elected Legislature	Examination of the audited accounts showing the appropriation of the resources granted by Parliament to the Sector.	Backlog of audit reports to handle.	The Public Accounts Committee has embarked on clearing this backlog.
<b>III – The Judicial System</b>				
	Directorate of Public Prosecutions	Mandated to handle and prosecute all criminal cases in Uganda.	Inadequate funding and understaffing.	Some overlap of functions with the Inspectorate of Government.
	Anti-Corruption Court	A division of the High Court of Uganda mandated to try anti-corruption cases.	There are questions whether administrative deterrence actions are more effective than securing convictions.	Since its founding in December 2008, the AC Court has heard 2 cases, including a high profile Global Fund scandal, resulting in convictions of accused persons.

**Table 2. A Corruption Risk Map of the WSS Sector: Institutional Pillars of National Integrity – continued**

Category	Components	Status	Corruption Risk(s) and/or Constraints in Addressing Corruption Risk	Comments
	<b>IV – Accountability/Oversight Sector*</b>			
	Inspectorate of Government (IGG's Office)	Mandated to monitor the use of Poverty Action Fund resources and to investigate suspected misuse or poor management of public money including for water and sanitation activities.	Inadequate funding, understaffing, court delays, hostile witnesses, lack of computerized data in other institutions, resistance by other institutions to addressing corruption issues.	
	Public Procurement and Disposal of Public Assets Authority (PPDA)	Carries out procurement audits and surveys across all government agencies.	Insufficient human and financial capacity, limited national coverage.	
	Office of the Auditor General (OAG)	Provide an independent oversight of government operations through management audits. The AG undertakes an audit of the MWE and local governments as well as NWSC every financial year.	OAG has inadequate human and financial capacity which delays submission of reports.	

**Table 2. A Corruption Risk Map of the WSS Sector: Institutional Pillars of National Integrity – continued**

Category	Components	Status	Corruption Risk(s) and/or Constraints in Addressing Corruption Risk	Comments
	<b>V – Civil Society</b>			
	Civil Society Organizations	Potential watchdog for governance and against corrupt practices in the Sector.	There are recent initiatives from civil society to monitor corruption issues, but most CSOs lack capacity to do this effectively.	Most CSOs in the water sector are mainly involved in service delivery and not anti-corruption initiatives. These NGOs should be exemplary and comply with the NGO Quality Assurance Mechanism. <sup>326</sup> NGOs taking responsibility for monitoring governance and anti-corruption issues in WSS include ACCU and TI-Uganda, NETWAS and selected UWASNET members.
	<b>VI – The Private Sector</b>			
	Private Corporations	Construction, management and supervision of water resources/schemes.	Involved in bribery to get contracts, and to get paid. Inflate costs. Limited technical capacity to construct and run water facilities.	The private sector is growing but there is limited technical capacity. There is a need to promote anti-corruption measures targeting the private sector.

<sup>326</sup> The QJAM is a tool developed by NGOs to promote self-regulation, transparency and accountability through the adherence to generally acceptable ethical standards and operational norms.

**Table 2. A Corruption Risk Map of the WSS Sector: Institutional Pillars of National Integrity – continued**

Category	Components	Status	Corruption Risk(s) and/or Constraints in Addressing Corruption Risk	Comments
	<b>VII – The Media / Access to Information</b>			
	The Media/Access to Information Resources	Expose alleged corruption cases in the Sector but limited follow up.  Access to information provided by the various actors varies. NWSC's website is up to date and provides a wealth of information. The website of DWD is outdated (last entry in 2007). Local government websites do not have information on tenders and contract awards.	Overall the media operate relatively freely (Global Integrity Index 2008). <sup>327</sup>	While the media do report many cases of corruption, they need to strengthen their investigative reporting skills.
	<b>VIII – The Development Partners</b>			
	Development Partners	Financial support to the Sector; monitoring of progress.	Have limited leverage over the Sector in terms of driving the anti-corruption agenda through the use of common funds (such as SWAps); increasing portion of general budget support. Increasing portions of General Budget Support are directed towards non-service delivery initiatives.	Development partners need to continue to engage with the Sector, and raise the need for good governance and implementation of anti-corruption initiatives.

\* Most relevant have been selected; other institutions mentioned in Main Report include the Directorate of Ethics and Integrity of the Office of the President.

<sup>327</sup> Global Corruption Report 2008: Corruption in the Water Sector. London, U.K., Cambridge University Press.

**Table 3: A Corruption Risk Map of the WSS Sector: Sectoral, Institutional and Project Perspectives**

Category	Components	Status	Corruption Risk(s)	Comments
<b>Sector Governance</b>	Independent Regulatory Body	Non-existent.	Lack of effective regulation results in absence of emphasis on need for improved performance, and provides opportunity for corruption. The current designated regulator (MWE) is unable to follow up on Performance Contracts between MFPED/MWE and NWSC due to a conflict of interest.	Due to the risks described, an independent regulator needs to be set up to regulate the Sector.
<b>Institutional Governance</b>	Ministry of Water and Environment	Manages and regulates water resources and determines priorities for water development and management. It also monitors and evaluates sector development programmes to keep track of their performance, efficiency and effectiveness in service delivery. Is autonomous in setting up water boards. In 07/08, MWE spent UGX140 billion in procurement. Also involved in construction of water facilities in urban water supply and water for production.	Non-adherence to procurement regulations; poor contract management; abuse of office; poor budgeting; political interference; limited human resource capacity. Audit queries are not adequately addressed; enforcement of required actions through Public Accounts Committee is inadequate.	<ul style="list-style-type: none"> <li>- Institutional reforms of the Sector required as a result of MWE's changed functions from implementation to policy-making, supporting and monitoring are still to be completed.</li> <li>- Corruption in the area of procurement is one of the biggest problems in the water sector; MWE lacks capacity to monitor procurement corruption. Integrity pacts should be promoted to address this.</li> <li>-The MWE should promote consumer/client charters to strengthen consumer rights.</li> </ul>

**Table 3: A Corruption Risk Map of the WSS Sector: Sectoral, Institutional and Project Perspectives - continued**

Category	Components	Status	Corruption Risk(s)	Comments
	National Water and Sewerage Corporation	Responsible for water and sanitation services in 23 towns of Uganda. Non-revenue water from 60% in 1998 reduced to present 32.5%, now rising. Collection efficiency 92% (from 60% in 1998).	Water connections; non-revenue water; embezzlement.	NWSC is a well run institution. It does have some corruption risks such as non-revenue water and instances of bribery to get new connections. Many times these issues can be addressed in conjunction with corporate-wide strategies to improve performance.
	Local Government	Funding from MWE in the form of Conditional Grants. Responsible for planning, budgeting, implementation and supervision of water and sanitation activities for the rural population. Local governments, in consultation with MWE, appoint and manage 22 main private operators for urban piped water schemes that are outside the jurisdiction of NWSC.	Non-adherence to procurement laws and regulations as well as to sector guidelines; increasing overhead costs as a result of new districts (No. of districts steadily rising from 56 in 2005 to the present 82); political interference; weak internal expenditure controls; low technical capacity of government staff especially in supervision, procurement and financial management; low government staff salaries.	<ul style="list-style-type: none"> <li>- Water officers are overwhelmed with activities as not all the positions are filled.</li> <li>- IGG reports inadequate monitoring and supervision of PAF<sup>328</sup> projects by mandated officers due to various reasons including inadequate capacity and sheer fraud.</li> </ul>

<sup>328</sup> PAF stands for Poverty Action Fund. Established by the GoU in 1998 under the Medium-Term Expenditure Framework (MTEF), the PAF is a virtual ring-fenced fund aimed at protecting resources for key poverty reducing areas including water, health, education and rural infrastructure. Initially it comprised debt relief savings with additional support from development partners and the Government of Uganda. Transfers are made through the government systems.

**Table 3: A Corruption Risk Map of the WSS Sector: Sectoral, Institutional and Project Perspectives - continued**

Category	Components	Status	Corruption Risk(s)	Comments
Project Financing	Ministry of Water and Environment; NGOs; District Representatives; DPs.	Various development partners administer funds to projects throughout the country using various funding modalities with related but different types of checks and balances of project management units to mitigate corruption. Part of these projects constitutes on-budget support, part off-budget.	Though greater control by development partners is exercised through regular monitoring and audits, payment of bribes, political interference and poor contract management still occur, depending partly on the funding modality.	Advantages of general / sector budget support as well as project support need to be weighed against their disadvantages; and increased corruption risk of budget support needs to be mitigated through checks and balances at appropriate intervals.

**Table 4. UGANDA: A Prioritized Anti-Corruption Plan for the WSS Sector**

Activity No.	Description	Monitoring Indicator(s)	Immediate Subsequent Implementation	Overall Priority	Responsible Agency
1	Strengthen Political Will	Annual Report of the GGSSWG	Immediate	High	MWE
2	Setting up an Independent Regulator for the Sector	Regulator in place Feasibility study for the regulator	Subsequent	High	The Executive in consultation with the Sector
3	Enforce Sector Guidelines	Annual Report on Enforcement of Sector Guidelines	Immediate	High	MWE
4	Improve Procurement and Project Implementation within MWE	Timely submission of audit reports; M& E reports. Reduction in the number of negative observations in audits sponsored by the OAG and PPDA relating to MWE's performance in procurement and project implementation.	Immediate	High	MWE, NWSC, PPDA
5	Implement Integrity Pacts and Codes of Conduct in the WSS Sector	Codes of Conduct and Integrity Pacts in place. Projects with Integrity Pacts ranked in the top 10% of audited projects.	Subsequent	High	MWE, NWSC, Local Governments, PPDA, Transparency International - Uganda
6	Provide Training in Procurement at the Local Government Level	Training attendance sheets; quality contracts in place; presence of records. Reduction in the number of procurement complaints.	Immediate	High	MWE, Local Governments, PPDA
7	Strengthen the Capacity of Civil Society Organizations (CSOs) and the Media to hold the WSS Sector to Account.	Costed out and Financed Capacity Development Plan. Capacity development activity reports. CSO monitoring reports; media coverage of governance issues in the WSS sector.	Immediate	High	Sector

**Table 4. UGANDA: A Prioritized Anti-Corruption Plan for the WSS Sector - continued**

Activity No.	Description	Monitoring Indicator(s)	Immediate or Subsequent Implementation	Overall Priority	Responsible Agency
8	Optimise Access to Information to Hold the Sector to Account	Consumer/client charters; Updated websites of MWE/DWD and NWSC; New websites (initially 4) for Local Governments.	Immediate	High	MWE, NWSC, Media, Development Partners
9	Strengthening NWSC's Corporate Governance including the Internal Audit Function.	System reviews; internal audit and value for money reports.	Subsequent	Medium	NWSC, PPDA
10	Introduce Sanctions for Non-compliance with Anti-corruption Undertakings	Implementation of MWE's action plan; agreement on type/trigger of sanctions; implementation of sanctions in case of non-compliance.	Subsequent	Medium	Development Partners

## Annex 7. Client Charter Format

	Content	Description
	Forward by Minister, Chairperson or other political leader of the organization	A charter needs to reflect the commitment made at all levels of the Minister, Department, Agency (MDA) or Local Government. The foreword will normally set out what the charter is, why it is important and the key commitments made by the organization.
1.	Preamble by Permanent Secretary, Chief Administrative Office, Chief Executive Officer of the MDA or Local Government	This will include the reasons why the charter has been produced, the participatory process adopted in its preparation and what the charter contains.
2.	Vision, mission and values	This will set out the mission - why the MDA or local government exists, the vision - the desired future that the MDA or Local Government wishes to create and the value- how clients can expect to be treated by public officers within the MDA or Local Government.
3.	Principal services, key result areas/outputs and targets	This will set out the services of the MDA or Local Government (key outputs) and service standards and commitments that the MDA or Local Government is making within the medium term.
4.	Clients, their rights, expectations and responsibilities	This identifies the clients, who they are and their expectations and responsibilities.
5.	Feedback from clients	This section will set out why feedback is important, how it is used and the mechanisms available to clients for making inquiries and providing feedback and proposals for improvement on the services provided.
6.	Managing complaints and other emerging concerns/issues	This section will set out how complaints and grievances will be resolved as well as standards and commitments for addressing these including confidentiality.
7.	Appeal processes	If a complaint or grievance is not addressed, this should set out the mechanisms for addressing the complaint or grievance to a higher level.
8.	Accountability	This should explain how the MDA or Local Government will report back to clients on its performance.
9.	Performance improvement	This section will set out the commitments being made to build from one level of achievement to the next for continuous performance improvement.

Source: *Ministry of Public Service. Guidelines for Developing and Implementing Client Charters in Ministries, Departments, Agencies and Local Governments (2007)*

## Annex 8. Key Websites

Institution	Website
1. African Union	<a href="http://www.au.org">http://www.au.org</a>
2. Anti Corruption Coalition of Uganda	<a href="http://www.anticorruption.or.ug">http://www.anticorruption.or.ug</a>
3. Directorate of Ethics and Integrity	<a href="http://www.dei.go.ug/about.htm">http://www.dei.go.ug/about.htm</a>
4. Directorate of Water Development Uganda	<a href="http://www.dwd.co.ug">http://www.dwd.co.ug</a>
5. Inspectorate of Government	<a href="http://www.igg.go.ug">http://www.igg.go.ug</a>
6. Justice, Law and Order Sector	<a href="http://www.jlos.go.ug/prosecutions2.php#profiles">http://www.jlos.go.ug/prosecutions2.php#profiles</a>
7. Ministry of Water and the Environment	
8. National Water and Sewerage Corporation	<a href="http://www.nwsc.co.ug">http://www.nwsc.co.ug</a>
9. Office of the Auditor General	<a href="http://www.oag.go.ug">http://www.oag.go.ug</a>
10. Parliament of Uganda	<a href="http://www.parliament.go.ug">http://www.parliament.go.ug</a>
11. Public Procurement and Disposal of Public Assets Authority (PPDA)	<a href="http://www.ppda.go.ug">http://www.ppda.go.ug</a>
12. Transparency International	<a href="http://www.transparency.org">http://www.transparency.org</a>
13. Uganda Water and Sanitation NGO Network (UWASNET)	<a href="http://www.uwasnet.org">http://www.uwasnet.org</a>
14. United Nations	<a href="http://www.un.org">http://www.un.org</a>
15. World Bank	<a href="http://www.worldbank.org">http://www.worldbank.org</a>