

Achieving Right to Water: Experiences from Multi Stakeholder National Dialogues in East Africa

"The Right to water entitles every person to have access to sufficient, affordable water and sanitation of acceptable quality for personal and domestic use". Ministry of Water and Irrigation, Kenya



Photo: Participants in the National Dialogue on Right to Water and Sanitation, Silver Springs Hotel, Nairobi Kenya
Photo credit: GWA/IEW

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Abstract

This case study summarises the experiences of African Civil Society Network's on Water and Sanitation (ANEW) arising from National water and sanitation *National multi stakeholder dialogues on the Right to Water* held in Kenya and Uganda in August 2010. We are therefore grateful to Uganda Water and Sanitation NGO Network (UWASNET) in Uganda, Institute of Water and Environment, Gender and Water and Environment, and Kenya Water and Sanitation Network (KEWASNET). The experiences from Tanzania and Rwanda are not part of this case study but have also been carried out and we appreciate the efforts of Rwanda Water and Sanitation Forum (RWASEF) and Tanzania Water and Sanitation Network (TaWaSaNet).

The purpose of the national multi-stakeholder dialogues on the right to water was to create awareness, assess how it is implemented in the each country and provide recommendations on how this can further be advanced to ensure the realization of the rights in each country.

The dialogues were attended by representatives of all Water, Sanitation and Hygiene (WASH) sector stakeholders including; government, civil society, development partners, private water suppliers and service providers, representatives of water user associations and statutory agencies working on water issues such as water board official. The dialogues were a forum for different actors to engage with each other and to educate where necessary other on what in Kenya. Briefly describe the theme of the case study, objectives, methodology, key change objective, brief details of others involved and strategic partners, key achievements, outcomes, impact sustainability and key lessons and conclusions.

The paper gives a brief introduction to the issue of right to water and sanitation, some of the key milestones in achieving the right to water, key challenges in the two countries, recommendations and possibility of replication of similar dialogues in other countries, lessons learnt both in terms of organizing an effective dialogue on one hand and from the implementation on the other hand. The paper concludes with and

Introduction

The right to water was explicitly recognized in a 1977 United Nations (UN) declaration, but a key legal catalyst for its promotion was the 2002 General Comment No. 15 on the Right to Water by the UN Committee on Economic, Social and Cultural Rights¹. The same committee goes ahead to define what the right to water and sanitation entails the following core aspects:

- Availability (sufficient amounts of water and sanitation infrastructure)
- Acceptable quality
- Access (physically reachable and secure)
- Affordability
- Sustainability (present and future generations)
- Non-discrimination
- Participation
- Transparency

All countries are struggling to achieve the Millennium Development Goals (MDG)². Unfortunately Africa is off track on most of the MDG targets. According to UNCEF and WHO, every year, around 1.5 million children under five years of age die each year from diarrheal diseases caused by poor sanitation and unclean water, more than 250,000 of

¹ UN Committee on Economic, Social and Cultural Rights, General Comment No. 15, *The right to Water* (Twenty-ninth session, 2002), UN Document E/C.12/2002/11 (2003).

² UN member states adopted the 8 Millennium Development Goals (MDGs) and targets in 2000.

them in Eastern and Southern Africa. 224 million people in sub-Saharan Africa practice open defecation³. This is the foundation for the demand for states to coordinate all actors to work for the achievement of the right to water.

It is important to distinguish the right to water in terms of what it is not:

- The right entitles people to free water: This position has been clarified to confirm that water and sanitation services certainly need to be affordable for all. However people are expected to contribute financially or otherwise to the extent that they can do so.
- The right allows for unlimited use of water: It calls for responsible and sustainable use of water as a scarce resource.
- The right entitles everyone to a household connection: the proper interpretation is that water and sanitation facilities need to be within, or in the immediate vicinity of the household, and can comprise facilities such as wells and pit latrines
- The right to water entitles people to water resources in other countries.

Realization of right to water and sanitation is a cornerstone in the achievement of the MDG on water and Sanitation which has serious implications on achievement of all the MDGs including reduction of extreme poverty, universal primary education, promoting gender equality, reducing child and maternal mortality, and reducing disease burden. According to UNDP, without access to WASH, poor health and frequent illness lead to lower productivity and lower income. It goes on to assert that without access to WASH, girls' drop-out rates are higher where schools have no separate toilet facilities for boys and girls⁴.

Objectives of the National Dialogues

The national dialogues on the right to water were organised along common objectives but each country emphasized what is most relevant to the country context. The specific objectives were:

- To build consensus on controversial or outstanding issues relating to the right to water.
- Raise awareness and ensure a common understanding of the right to water and its relevance in the management of water and sanitation
- Explore the extent to which the right to water and sanitation is reflected in national policies, laws and strategies and programs and also identify some of the enabling factors as well as challenges.
- Identify implementation gaps, opportunities and recommendations for further action.
- Set a forum for continued dialogue among the various sector actors.

Milestones

Different countries are at different stages on the road towards achieving the right to water and sanitation. In Uganda the right to water is provided for in the constitution, "the state shall endeavour to fulfil the fundamental rights of all Ugandans to social justice and economic development and shall in particular ensure that....all Ugandans enjoy rights, opportunities and access to education, health services, clean safe water ..."⁵

³ UNICEF/WHO Report Progress on Water and Sanitation Update 2010

⁴ UNDP, Human Development Report, 2006.

⁵ The Constitution of Uganda 1995, Article 14.

Kenya has gone beyond the entrenchment of the right to water and sanitation in the constitution to include it and consider it in the water sector reforms. It recognises water as an item of economic value and as a right. According to the Ministry of Water and Irrigation, the strong commitment to equal access and poverty orientation in Kenya is outlined in water sector policies and has been factored into the new legal framework. I have published the National Water Resources Management Strategy (NWRMS) and the National Water Services Strategy (NWSS) and elaborated a pro-poor implementation plan (PIIP). The ministry states, "From these documents, it is understood that the right to water entitles every person to have access to sufficient, affordable water and sanitation of acceptable quality for personal and domestic use⁶."

Challenges in realizing the Right to Water and Sanitation

There are numerous challenges that stand in the way of achieving the right to water hence turning it into a tall order for the governments amid resource constraints and competition with national priorities. There are challenges unique to particular countries, in this case Uganda and Kenya, while other challenges are common. The following challenges are evident in both countries.

a) Growing scarcity and population:

Uganda has a high population growth currently stands at 3.2% and specifically at 6% in urban areas. The urban population is 15% (at night) but higher on a working day (30%). Therefore the number of people served with water per year doesn't match population increase, especially because the resources available don't match population increase. In addition the development of infrastructure in urban areas doesn't match urban population growth. Similarly Kenya has witnessed a rapid population growth over the last 30 years which has resulted to per capita water decrease from 1,853 cubic metres in 1969 to the current estimate of 647 cubic metres thus going below the global benchmark of 1,000 cubic metres per person a year. With the current trend, it is projected that by 2025, Kenya's per capita water availability will be in the danger zone of 235 cubic metres⁷. The implication is that the governments are shooting at a moving target making achieving the right difficult.

b) Poor oversight of water rights:

Uganda experiences weak regulation and lack of clarity on who protects consumers. This hinders fast progress towards realization of the right to water and sanitation. While in Kenya in the past each water right application was considered individually rather than based on an overall allocation plan. This created an unresolved situation where there is very little information on abstraction on a catchment basis resulting in illegal abstraction without regard to the limits hence threatening access for other users.

Poor water pollution control:

Environmental degradation affects water quality and Uganda has many limitations to proper enforcement of environment and water resources. There is continuous degradation and pollution of water sources. The result is that the cost of providing water keeps growing and therefore less and less people can be served annually. In Kenya, both the National Environmental Management Authority (NEMA) and Water Resources Management

⁶ Ministry of Water and Irrigation, Kenya, 2007, *Water Sector Reform in Kenya and the Human Right to Water*.

⁷ Hon. Kaluki Njiru, Minister of Water and Irrigation, *Speech on the Opening of the Dialogue, 17th August 2010*.

Authority (WRMA) have established waste and effluent discharge charges to water bodies. However, the enforcement of related laws is completely inadequate and therefore unable to ensure compliance. In this regard, pollution of water bodies is making access to safe water just but a dream.

c) Climate change:

Uganda and Kenya have been affected by climate change. In Uganda there have been cases of dropping levels of Lake Victoria among other sources leading to unreliable services. There is increasing failure of simple and affordable technological options such as shallow wells. Kenya on the other hand has been facing increased water stress due to extreme weather events in form of droughts and floods. The resultant effects on water quality and quantity available have been severe for the poor with frequent water borne disease outbreaks reported and the distance to points of access to water increasing.

The following challenges are unique to the individual Kenya and Uganda respectively: Kenya has challenges on governance. Inadequate decentralization and devolution in the way appointments are done. Appointment procedure determines where ones allegiance is. An appointee of the people will represent the interests of the people. Since the centre of accountability is around where ones legitimacy and authority comes from. For example, a Water Services Board (WSB) will pay their allegiance to the political figures that facilitated their appointment. Political interference is a big challenge to good corporate governance in the sector.



*Photo: Right: Participant contributing in the National Dialogue on Right to Water and Sanitation.
Left: Panellists responding to questions, Imperial Royale Hotel, Kampala Uganda.*

Photo credit: UWASNET

Civil Society is yet to get strong and not well coordinated in the efforts. The gap between CSO and government needs to be narrowed. Moreover, CSOs should align efforts to compliment government interventions.

Monitoring and evaluation does not have indicators human rights based indicators set by the regulator. A human right framework is necessary to take care of the rights issues.

Participation is not good since awareness is lacking; rights holders need to know their rights and know from whom to demand them. More awareness and education is necessary so that duty bearers and rights holders are clear on what role for each.

The following are challenges unique to Uganda

There is competition for resources with other sectors e.g. energy and roads. The government of Uganda comprises of 16 sectors but the WASH sector ranks number 11 and accesses only 2% of the national Gross Domestic Product.

High cost of doing business including cost of investment, production, that is treating and delivering services to the consumers. For example Uganda has one of the highest electricity tariffs in sub Saharan Africa and this negatively impacts on cost of accessing water.

CSOs in WASH are fewer than those in electoral processes or health, and this implies that the sector has fewer stakeholders complementing the government in the achievement of the WASH targets

Some key technology options promoted are not responsive to access to water. They provide water to a radius of 1Km from households. The sector should move towards delivering water at the doorstep.

Recommendations

- Develop tight appointment policies involving all stakeholders to address political interference.
- Awareness creation on reforms and rights needed among the citizenry especially the low income urban areas and the vulnerable in the rural areas. Information dissemination on rights and roles of various institutions is still necessary
- Strengthen enforcement of rules and regulations and work hand in hand with Kenya Anti Corruption Authority on this in order to reduce corruption.
- Set up a platform for consumer voices to be heard and amplified.
- Develop an M&E framework to track progress towards realization of the right to water in Kenya and create synergy for all actors in the sector.
- All stakeholders to work with the government to articulate how the constitutional provisions on the right to water can be translated into practical action.

Key recommendations from the dialogue

The major recommendation from the dialogue was for all stakeholders [CSOs, Government and Development Partners] to recognize that they complemented each other towards the achievement of the Ugandan WASH sector goals. It emphasized that it was important for these stakeholders to capitalize on and perfect their individual niches so as to serve citizens better. There was also emphasis on collaboration and coordination of efforts of all these stakeholders.

The section below highlights recommendations to individual stakeholders.

CSOs

- Adopt the CSO quality assurance mechanism as a measure of good governance and accountability, to further increase credibility within the WASH sector.
- Be vigilant in monitoring service providers to examine quality of services and value for money.
- Conduct a critical analysis of how Government uses the taxes collected from citizens vis-à-vis the quality and quantity of services provided.

- Advocate [in collaboration with MWE] for increased budget allocation to the WASH sector.
- Advocate for equitable funding to the sanitation sub-sector.
- Ensure that people at the grassroots level understand that water is fundamental human right.
- Lobby and inform Government that it has the responsibility to provide citizens with water. Inform the citizens that they have an obligation to maintain the infrastructure by paying the water bills and ensuring O&M of the water facilities.
- Cease subsidizing household sanitation during implementation of WASH projects.

Government

- Review stakeholder roles and responsibilities to promote coordination and collaboration especially in the environment sub sector. Ensure that the stakeholders have a common understanding of the sector goals.
- Advocate [in collaboration with CSOs] for increased budget allocation to the sector.
- Ensure that citizens access safe water [it is Government responsibility].
- Spearhead the development of a strong regulation with clear responsibility centres on who protects consumers from unethical and poor service provision.
- Review technology options and promote technologies that deliver water at the doorstep.

Development Partners

- Continue providing financial support to the WASH sector, with special attention to sanitation.
- Development partners should continue pushing the government to ensure funds are allocated to the sanitation budget line.

Replication

The dialogues were very effective in opening up discussions among the stakeholders. It is therefore possible to extend these dialogues to other countries to foster a sense of cooperation and coordination.

Lessons learnt

1. It is critical to bring together all the key actors at the forum so that discussions are facilitated.
2. The right to water is interpreted, understood and translated into action differently by the different stakeholder in the different countries. It is therefore important to demystify it and raise awareness of all along a common definition. This makes it easier to measure progress of achievement.
3. The dialogue was a welcome intervention which was recommended to continue on a more regular basis.

Conclusion

The two countries where the case study was documented are still struggling to turn their commitments on the right to water into reality. There great need for cooperation,

collaboration and partnership among all government and non state actors in order to achieve the right to water.

Practical implications:

- Concrete and tangible steps must be take to promotes water and sanitation as an entitlement, allowing for all levels of government and others to be held accountable
- Attention must be paid to vulnerable and marginalised groups – recognises exclusion as a cause of lack of access. Proactive measures to ensure that Government policies, plans strategies and programmes deliberately address the particular needs of vulnerable or marginalised groups
- Concrete and tangible steps must be take to promotes water and sanitation as an entitlement, allowing for all levels of government and others to be held accountable
- Attention must be paid to vulnerable and marginalised groups – recognises exclusion as a cause of lack of access. Proactive measures to ensure that Government policies, plans strategies and programmes deliberately address the particular needs of vulnerable or marginalised groups.
- Real as opposed to symbolic people’s participation in decision-making and access to information – more effective development: Emphasises people’s participation in decision-making and access to information, including a right to access relevant information.

For more information on this case contact: (include full name and contact details of person/s submitting this case.

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Compliments:

- Management and staff of Uganda Water and Sanitation Network UWASNET.
- Management and staff of Institute of Environment and Water/ Gender and Water Alliance Nairobi.