

Uganda

Report

Submission to the UN Special Rapporteur

March 2014

1. Please indicate and describe a participatory process or processes in your country that are related to the human rights to water and/ or sanitation. Which authorities and organizations are involved in the design and facilitation of the process? What are the costs of designing and facilitation the process? Who covers the cost the Sector Wide Approach (SWAP) system in Uganda

Since 1994, Government of Uganda (GoU) has implemented a policy of decentralization, which was enshrined in the 1995 Constitution of the Republic of Uganda, and in the 1997 Local Government Act. GoU introduced the sector-wide approach (SWAp) that looks at broadening of sector funding and monitoring and implementation of sector activities. Therefore, the SWAp is under government leadership and through this approach, Government has provided a number of engagement platforms for joint stakeholder reflection and dialogue on key thematic issues in WASH such as the Water and Environment Sector Working Group, which deals with policy issues in the sector; and the National Sanitation Working Group, which focuses on addressing issues of sanitation and hygiene in the country; the Joint Technical review, to assess progress on sector undertakings at mid-term; the Joint Sector Review, to review progress of achievement of sector undertakings at end of each financial year; the Functionality Working Group, to address issues of functionality of water supply systems; Integrated Water Resources Management Working Group, to address issues of IWRM and transboundary waters; Management Information Working Group (MIS), to address issues of sector performance monitoring; and Governance Working Group, which address issues of WASH Governance in the sector. In addition, the sector also put in place the Uganda Water and Sanitation NGO Network (UWASNET), whose mandate is to strengthen networking and collaboration of sector NGOs; lobbying, advocacy and policy influencing at national and international levels; capacity building for members; research and development; promotion of partnerships; and communication, documentation and support to learning. Every year UWASNET writes and submits a report highlighting CSO input into the Water and Environment sector. This CSO input is published in the Water and Environment Sector Performance Report.

The above platforms, therefore, support the participation and engagement of different stakeholders in dialogue on sector issues and contribute to learning and sharing of information, both at local and national levels. In addition, these fora help and encourage different sector actors to adopt and replicate best practice approaches such as Community Led Total Sanitation (CLTS), the cluster approach, mainstreaming equity and inclusion, citizen's engagement, and rights based programming, among others.

2. What does the process seek to ensure – participation in legislative proposals, policy-making, budgeting, service provision or other measures? At what level does the process take place – the national, local or international level?

The process seeks to ensure the following:

- Participation of actors in policy influencing
- Sharing and learning by different stakeholders
- Improving Sector Performance Monitoring
- Generation of evidence around policy implementation and practice for improved planning, monitoring and implementation of Sector activities.

3. Has there been a history of mobilization in your country to ensure participation in decision-making? In general, is the government (at the various levels) viewed as responsive to such demands? How has the government responded to people's demands for (increased) participation?

The Local Government Act is very clear on the process of participation of citizens, for example, in the planning process. However, due to limited financial and human resources within local government, this process is weak and not adequately handled or given the due attention it deserves. Consequently, under the water sector, international Civil Society Organisations such as Network for Water and Sanitation (NETWAS), Plan International, Uganda Water and Sanitation Network (UWASNET), WaterAid as well as local CSOs play a significant role in mobilization of citizens to participate in decision-making process and to claim for their right to WASH.

In the water and sanitation sector, Government came up with six (6) critical requirements to be met by communities before any water interventions are put in place. The purpose of these requirements is to ensure community participation and ownership of projects and include:

- (i) Communities must express demand for water services facilities through submission of applications;
- (ii) communities must attain 30% sanitation (latrine coverage);
- (iii) communities must contribute UGX 200,000= towards capital costs;
- (iv) communities must settle land conflicts, to ensure land where construction will take place is secured;
- (v) communities must establish Water User Committees and be trained on operation and maintenance;
- (vi) gender – communities must ensure women are represented on WUCs and in the top positions (such as Chairperson, Treasurer and Secretary) that enable them to take decisions;

Government has also put in place “Barazas”. Barazas are a Presidential initiative that was adopted to create space as a citizen’s advocacy forum. These fora bring together stakeholders from all three sectors: Government (central and local governments) who are the policy makers; public service providers – who are policy implementers; and the public - the users of services. The fora provide an opportunity for interface between the local communities and their leaders on sharing of public information with focus on effective monitoring of public service provision (on the part of leaders) and demand for the accountability and transparency (on the part of the local population)¹.

Barazas are usually conducted at sub-county and/or Division levels (at least twice a year) and are spearheaded by the offices of the Resident District Commissioner (RDC) in each respective district. When the initiative was adopted in 2009, it was piloted in ten (10) districts and has since been rolled out to about 68 districts presently with plans to cover the whole country in the next three years. At the national level, oversight for the Barazas initiative is provided by the Office of the Prime Minister (OPM) and monitored by its department of Monitoring and Evaluation (OPM-M&E). Barazas seek to follow the following system:

¹ http://opm.go.ug/projects/Baraza_Programme.html

However, Barazas have not been well organized as they should be. Many times they turn out to be political rallies and in the end do not meet the objectives for which they were formed. Sometimes the content of the discussion is pre-determined, with minimal participation of citizens. In 2013, Parliament passed the Public Order Management Bill which was signed into law. This law has reduced significantly the participation of citizens in their own development because nobody is allowed to organize any big gathering without prior permission from the police.

It is important to note that regarding responsiveness by government, while there has not been a comprehensive study to measure responsiveness to increased demands for participation, there is some information that may be used to assess the situation. For example, in 2012, WaterAid, the Parliament of Uganda and other stakeholders used evidence of increased water utility fees for the urban poor who had to buy water at an increased cost from middlemen to advocated for successful removal of value added tax on piped water in urban areas. However, this tax was reinstated by the Government in 2013 thus denying the urban poor the right to water and sanitation. Although national utility company – National Water and Sewerage Corporation (NWSC) – has come in to promote use of prepaid meters in order to serve the urban poor, preliminary assessment indicates that prepaid meters have not eliminated the middleman.

4. Is there a legal or policy basis for participation? Specifically, is participation with respect to improving access to water and sanitation provided for in legislation, policy or practice in your country?

Article 38 of the 1995 Constitution of Uganda provides the basis for citizen participation in all government processes. It states that:

- (1) Every Uganda citizen has the right to participate in the affairs of government, individually or through his or her representatives in accordance with law.
- (2) Every Ugandan has a right to participate in peaceful activities to influence the policies of government through civic organisations.

The National Water Policy of 1999 also promotes the participation of all stakeholders including women and the poor in all stages of water supply and sanitation.

Article 176 of the Constitution of Uganda establishes the local government system, and among others, provides that the system shall be such as to ensure that functions, powers and responsibilities are devolved and transferred from the Central Government to local government units in a coordinated manner. It is further provided that the local government system is aimed at decentralization and ensuring people's participation and democratic control in decision making.

Section 30 of the Local Governments Act read together with part 2 of the Second Schedule of the Act is to the effect that a local government council shall, within its area of jurisdiction provide water services.

The Water Act facilitates participation by providing for Water User Groups and Associations as follows:

Section 50. Water user groups and water and sanitation committee.

(1) A set of individuals or households may form a water user group and collectively plan and manage the point source water supply system in their area.

(2) A water user group may collect revenue from persons using the water supply system for the maintenance of the system, and the tariffs to be collected under this subsection shall be approved by the director.

(3) A water user group shall operate through a water and sanitation committee which shall be—

(a) the executive organ of the group; and (b) in addition to water supply, responsible for sanitation and hygiene in the area.

Section 51. Water user association.

(1) Where a water supply system is established by and serving more than one water user group, each operating through a water and sanitation committee, the committees involved shall form a water user association which shall consist of an agreed representative of each committee.

(2) An association formed under subsection (1) shall manage the water system and may with the approval of the director set tariffs and collect revenue for the maintenance of the system.

Section 52. Associations and committees to work under director.

(1) Water and sanitation committees and associations shall operate under the direction of the director of the directorate of water development.

(2) Local authorities may organise the formation of water user groups and associations within their jurisdiction.

5. How have the geographical reach of processes and the concerned individuals and groups been defined? How do processes ensure inclusiveness? How do processes seek to ensure that not just major stakeholders, but also concerned individuals can participate?

At local government level, communities are represented by councilors and, at legislative level they are represented by the members of parliament. These include those who represent interests groups like women, youth, and people with disabilities. However there is no mechanism to check if these elected officials really represent the interests of those that they claim to represent. Few of them return to their constituencies for consultations if the issue has a political consequence unless it has direct impact on them.

Specifically, in WaterAid Uganda's programming, WaterAid has adopted the Human Rights Based Approach (HRBA) and integrated it into its programming approach for WASH service provision. WaterAid has also build the capacity building, of both local CSO partners as well as District Local Government on the HRBA. This is because WaterAid believes that rights-based approaches help us to analyse the issues around inequitable power relations that act as barriers to people having access to safe water and sanitation. WaterAid, therefore, has recognised the need to complement the needs-

based approach with a rights-based approach in order to find empowering and sustainable access to WASH by poor people.

In addition, WaterAid Uganda is conducting a research titled “Undoing Inequity: inclusive WASH programme that deliver for all”. This project aims to understand the barriers that disabled, older and chronically ill people face when accessing standard WASH services in Uganda and Zambia; develop and test an approach that aims to address these barriers and ensure safe WASH access for all. The project began in 2011, and baseline data was collected in Uganda and Zambia in 2012. Analysis of the preliminary findings led to the development of the inclusive WASH approach which involves addressing environmental, attitudinal and institutional barriers in society. To conduct this research, WaterAid is collaborating with the Water, Engineering and Development Centre (WEDC) at Loughborough University throughout the project, and has partnered with London Cheshire Disability (LCD) Centre to collect the baseline data. WaterAid Uganda hopes to use the results of this research to influence government to put in place a national guideline for promotion of inclusive WASH to ensure access for all; and secondly, to influence government to review the sector equity performance indicator, based on the experiences from the field.

6. Are certain individuals or groups meant to represent others? How does the system of representation work? What is the role of NGOs? Who do they represent, if anyone? Is there any process of verifying their claim to represent, i.e. are they required to produce any type of proof?

In addition to responses in No. 5 above, there are CSO networks, coalitions and associations in different sector such as water and sanitation, health and education. At the national level, there exists the Uganda NGO Forum. The NGOs in the Water and Sanitation Sector are represented by an Umbrella Organisation called Uganda Water and Sanitation NGO Network (UWASNET). There are also other networks and coalitions and associations of vulnerable people such as the National Union of disabled Persons (NUDIP).

7. What are the opportunities for participation? Are there consultations, hearings, opportunities to submit written responses and online fora?

The opportunities for participation are written, for example the 1995 Constitution of the Republic of Uganda and the Local Government ACT has provisions for consultations of citizens in different development processes. However, these opportunities are for the minority elite and not for the majority who cannot read and write and the marginalised. For example, the Sector wide approach is well defined and more practical at National level allowing participation of different stakeholders in different sector working group meetings. The situation is a bit different at the District level and village level, where the who have not been to school cannot adequately understand the development processes, how they are supposed to participate and their roles and responsibility requirements.

8. What measures are in place to enable people to participate? What measures are taken to overcome barriers that people face, in particular marginalized groups and individuals?

The Constitution of Uganda clearly spells out that the marginalised groups such as women, youths and the disabled persons and these have special slots for them to participate, both at local government level and the legislative level. At the community level, for example, the Water User committees must have a representation of women on the committees. The Government has some platforms like the Baraza which are open fora at lower levels engagement, allowing participation of community members and

voicing out issues affecting service delivery, participation, equity, accountability and transparency. The challenge is that these meetings are not regular and at times happen on an adhoc basis without follow up strategies. The other challenge is that the Government officials set the agenda and most times it is overrun with political issues thus diverting from the original purpose of giving a voice to citizens to be able to raise their concerns.

9. What channels have been used to disseminate information about the envisaged measures and the participatory process?

It is mainly the mass media (especially radio), although listeners are selective. Most community members do not understand the policy implications. For example the Local Government Planning Cycle is very clear, requiring initial identification of priorities from the grassroots/community level, but most communities are not aware of the timing or schedule and not much has been done to ensure that everyone is informed of these opportunities to participate in development processes. Therefore, a lot needs to be done to disseminate information on participatory planning, budgeting, and implementation and monitoring of development processes.

10. How are the inputs taken into account? What is the impact of participatory processes on decision-making and the design of measures and policies?

The Policy framework provides for participation of different stakeholders in development processes but not enough attention is given to ensuring that inputs from all stakeholders are taken in to account.

There seems to be no clear linkages between policy implementation and policy making. There is little evidence of gaps identified at the policy implementation level having an impact in influencing the direction of policy.

12. What follow-up has been put in place? Are people informed about the outcome of processes? Are they informed about whether and how their proposals have been taken into account?

People's representatives, for example in Parliament, are supposed to give feedback, but in most cases they do not do so. If the outcome of the processes has a positive political impact, the government can use all the possible channels to see that everybody knows what has happened or what is taking place. But if the process can have a negative impact politically, it may be known by a few people.

13. Would you describe the participatory processes as successful? If the specific process referred to above has been completed, please comment on what accounts for its success or failure. Has the process been evaluated? What lessons does it offer for future processes?

To some extent, the sector wide approach has been successful in bringing different stakeholders together to discuss development issues. For example, the different Sector Working Groups have attracted the participation of Private Sector, Civil Society Organizations, donors and Government officials. The failure is on the leadership aspect. There is no clear responsible centre for ensuring the linkage between policy formulation and policy implementation levels.

For future processes, it is important to establish a clear monitoring mechanism that keeps checking and balancing gaps that may be identified at the lower levels, to inform the process of policy formulation and implementation of development processes in a manner that ensures participation of all.