‘Handing over’ the water sector to new managers

The story about water sector reforms in Kenya is really about decentralizing and devolving the management of water services, and empowering new entrants to shape the playing field. This Kisima focus article discusses the process of ‘handing over’ in the context of key policy shifts and challenges that have defined the reforms process so far.

The challenge of managing national water resources and maximising the availability of potable water to the majority of Kenyans has tasked successive governments since Independence. In the early seventies, an ambitious water master plan was launched to ensure availability of water to all households by the year 2000. But the approach of taking over water supplies previously managed by communities, local authorities and public institutions was found to be unsustainable since the Government lacked the resources to directly finance or subsidize these services.

By the eighties it was clear that the government could not, on its own, deliver water to all Kenyans by 2000. The focus then shifted to ‘handing over’ – a process of finding ways of involving others in the provision of water services in place of the government. Through this process, provision of basic services – including water and sanitation, education and health – could be achieved by involving beneficiaries through cost-sharing.

However, only piecemeal reforms were achieved in handing over of ownership and management of water supplies to communities. Despite ambitious water supply development programs, only one of every three Kenyans could access potable water by the turn of the millennium.

The impetus for policy reforms was largely influenced by the acceptance that good governance was critical for economic growth, and that this could translate into how public affairs over provision of rural and urban water supplies, and sanitation services were managed. Good governance has since been adopted as a dominant theme in the current water policy – Sessional Paper No.1 of 1999 – and subsequent Water Act of 2002; the foremost referral points for water reforms in Kenya.

The new water policy addresses water resources management, water and sewerage services delivery, institutional arrangements and financing. The role of the Government is redefined to focus on regulatory and enabling functions, rather than direct service provision.

The policy paper argues that in a liberalized socio-economic framework,
The launch of this Kisima newsletter signifies yet another milestone in the strategic collaboration alliance between the Ministry of Water and Irrigation and the Water and Sanitation Program – Africa in the advancement of Knowledge sharing within the sector.

I am happy to note that the premier issue of this publication has chosen to devote its attention on water sector reforms which the Ministry is implementing aimed at better management of water resources, improving access to water and sanitation services, enhancing accountability, and decentralizing provision of services. The legal framework guiding the implementation of these reforms is the Water Act 2002, which was enacted in March 2003.

The key principles underlying the reforms are:

• Separation of policy, regulation and service provision within the water and sewerage sector;
• Separation of water resource management from provision of water and sewerage services to avoid conflict of interest in resource allocation and management;
• Devolution of responsibilities for water resource management and water service provision to the local level to create a sense of ownership and responsibility; and,
• Enhancing the sustainability of service provision.

Under the Water Act, new institutions have been set up and the roles of various actors redefined. On its part, the Ministry has launched all the key institutions and is in the process of operationalising them. This process has not been easy and for the reform programs to succeed they need to be well understood and supported by all stakeholders. Such programs are however often placed at risk when the institution steering the changes does not put in place adequate mechanisms to secure political and social support amongst stakeholders. The mechanisms include adopting a strategic approach to communicating with key stakeholder and interest groups. Communication is required to build understanding and support for reforms because resistance to reform is expensive. When there is resistance, reforms take much longer to implement or they may not proceed as planned.

The Ministry has developed a communication strategy to help in communicating the reforms, the need to use different channels to use different channels can not be over emphasized. This journal will therefore serve to further the need to continuously inform the water sector fraternity in the country of the key issues happening in the sector. It will also help in the advancement of knowledge among sector actors and thus contribute greatly to the development of the sector. Please join me in welcoming the premier issue of this publication.

Prof. George Krhoda
Permanent Secretary
Ministry of Water and Irrigation

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it is unwise to continue spending public funds on utilities whose operational costs could not be sustained. Instead, the Government places emphasis on supporting private sector participation and community management of services. Communities are also to be involved in all stages of water projects development, including water resources investigations, planning, implementation and operation and maintenance.

The Water Act of 2002 lays the legal framework for implementing the current water policy. Its main thrust is the separation of the functions of water supply and sewerage from those of managing water resources, and also policy formulation from sector regulation. In whole, the reform process embraces the principles of commercialization and private sector participation as powerful responses to problems of water delivery services in urban and peri-urban areas.

The new water managers

Authority over the water sector has now been decentralized to players at operating different levels, from the Ministry in charge of water affairs right down to the consumer. Executive authority is also devolved to new institutions: water supply and sewerage to the Water Services Regulatory Board (WSRB) and water resources to the Water Resources Management Authority (WRMA). The Act further provides for regulation of water provision services, which can only be undertaken under the authority of a license to service providers.

At the national level, the Government is responsible for strategic planning and inter-sectoral coordination, including collaboration efforts with development agencies, civil society and the private sector. This portfolio is under the Ministry of Water and Irrigation. The WSRB is responsible for regulating of water and sewerage services provision, including issuing
licenses, setting service standards and guidelines for tariffs and prices, and providing mechanisms for handling complaints. Responsibility for provision of water services is vested in Water Service Boards (WSBs), under the regulation of the WSRB.

Seven Water Service Boards have so far been established across Kenya to manage provision of water services in Nairobi, Coast, Central, Lake Victoria, Rift Valley, North and Lake Victoria North regions. But direct provision of water services is to be undertaken by Water Services Providers (WSPs) that operate as licensees of the water service boards.

These service providers may be community groups, non-governmental institutions or autonomous entities formed by local authorities. The Nairobi Water and Sewerage Company, recently weaned from the Water and Sewerage Department of the City Council, is the principal services provider to the city’s three million people. Other water services providers have been licensed in Eldoret, Nyeri, Nakuru and Kisumu. However, the immediate challenge facing the government is to complete the transfer of management and operation of water services to these WSBs.

To assist in financing the provision to areas without adequate water services, a Water Services Trust Fund has been set up to tap funding potential from the government, donations or grants. Regulation of the sector is checked by a Water Appeals Board, a tribunal of appeal on disputes within the sector.

With an expanded field of water managers, the challenge facing the reforms process is how the institutions are financed and run; their acceptability to various stakeholders; and, how to respond to mounting pressure for increased private sector and community participation in direct services provision.

The Ministry of Water and Irrigation stands out as the single-most identifiable champion of the reform process. With support from development partners, the Ministry initiated and sponsored revision of the water policy and the Water Act 2002. The ministry has since been hosting a Water Sector Reforms Secretariat that serves as the focal point for stakeholder ministries, development agencies and civil society institutions. The Secretariat’s role is to coordinate and guide implementation of the reform process.

The influence of development partners – including the World Bank, SIDA, KfW, AFD, Fininda, the Netherlands, Belgian Administration for Development, GTZ, Austria, the African development Bank, JICA, among others – has been most profound throughout the reforms process.

Besides providing financial support, the development partners have played a key role in shaping the reforms agenda, refining policy objectives and the methods for pursuing them, and influencing the pace of the reforms. For example, SIDA supported the development of the national water policy and drafting of the Water Act 2002. Other institutions, including GTZ, WSP-Africa and the World Bank are providing financial and technical support in strategy development and in reviewing sector financing.

### Gazetted Water Service Boards

<table>
<thead>
<tr>
<th>Province</th>
<th>No. of districts</th>
<th>Area Km²</th>
<th>1999 population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Coast</td>
<td>7</td>
<td>82,816</td>
<td>2,487,00</td>
</tr>
<tr>
<td>Nairobi</td>
<td>6</td>
<td>40,130</td>
<td>5,617,000</td>
</tr>
<tr>
<td>Central</td>
<td>13</td>
<td>52,777</td>
<td>5,032,000</td>
</tr>
<tr>
<td>Rift Valley</td>
<td>8</td>
<td>113,771</td>
<td>2,989,000</td>
</tr>
<tr>
<td>Northern</td>
<td>9</td>
<td>244,864</td>
<td>1,703,000</td>
</tr>
<tr>
<td>L. Victoria North</td>
<td>11</td>
<td>16,977</td>
<td>5,135,000</td>
</tr>
<tr>
<td>L. Victoria South</td>
<td>16</td>
<td>20,340</td>
<td>5,730,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>70</td>
<td>571,675</td>
<td>28,703,000</td>
</tr>
</tbody>
</table>

### Institutional set-up under Water Act 2002

- **Policy Formulation**
  - Ministry of Water and Irrigation
  - Water Resources Management Authority
  - Catchment Areas Advisory Committees (CAACs)
- **Regulation**
  - Water Services Regulatory Board
  - Waters Services Boards (WSBs)
- **Services Provision**
  - Water Resources Users Association (WRUAs)
  - Water Services Provider (WSPs)
- **Consumption, Use**
  - Consumers, Users
  - Water and Sewerage Service
  - Water Appeal Board (WAB)
  - Water Service Trust Fund (WSTF)
Piecemeal reforms in the 1990s cautiously handed over water systems to communities. Since the goal of community management was to ultimately encourage ownership of the water supplies, the criteria for handing over included the community’s capacity to take over, pay for and operate as well as maintain water supplies. But by 2002 only ten schemes serving some 85,000 people had been handed over to communities under these guidelines.

The new water policy changed this cautious hand-over by advocating a participatory approach that involves communities in decision-making and builds partnerships with the private sector and civil society institutions. This was the rationale used by the Ministry in charge of water affairs to engage in a consultative process with stakeholders to refine the water policy and achieve consensus on the Water Act 2002. Even so, wider participation of water users and communities will be critical in ensuring sustainability of these services.

A major shortcoming of the reforms agenda is its failure to provide sustainable solutions for improving access to water supply provision by the poor. The water policy notes the importance of evolving a conscious strategy to provide water to the poor and indicates the government’s preference for water programs that have a direct impact on poor communities.

However, greater efforts are needed to revise and adapt relevant laws to allow for direct service delivery within informal settlements, and to create room for small scale providers as well community groups. Equally important is the need to draw a clear time frame and benchmarks for the reform activities. This would enhance confidence in the Government’s commitment to the reform process, focus attention on implementation, and facilitate rational sector financing.

This focus article is adapted from a presentation: “A review of sector reforms in Kenya,” by Eng. Daniel Barasa, Programme Director, Water Sector Reform Secretariat, Ministry of Water and Irrigation.

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<table>
<thead>
<tr>
<th>Bottlenecks under Water Act (CAP 372)</th>
<th>Expected outcomes under Water Act 2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor coordination in Water Sector</td>
<td>Improved coordination in Water Sector under one Ministry</td>
</tr>
<tr>
<td>Poor policy accountability</td>
<td>Clear policy accountability</td>
</tr>
<tr>
<td>Poor attention to water resources management</td>
<td>Focused attention to water resources management</td>
</tr>
<tr>
<td>Lack of clear regulatory framework</td>
<td>Clear regulatory framework</td>
</tr>
<tr>
<td>Lack of performance monitoring and evaluation</td>
<td>Performance monitoring and evaluation</td>
</tr>
<tr>
<td>Poor performance of water-undertakers</td>
<td>Improved performance of water-undertakers</td>
</tr>
<tr>
<td>Poor management of water resources (Quality and Quantity)</td>
<td>Improved management of water resources (Quality and Quantity)</td>
</tr>
<tr>
<td>Failure to attract and retain skilled manpower</td>
<td>Ability to attract and retain skilled manpower</td>
</tr>
<tr>
<td>Inadequate allocation of resources</td>
<td>Efficient provision of services leading to self sustainability</td>
</tr>
<tr>
<td>Poor service delivery</td>
<td>Improved service delivery</td>
</tr>
<tr>
<td>Low coverage</td>
<td>Increased coverage</td>
</tr>
<tr>
<td>Inability to attract investments</td>
<td>Ability to attract investments</td>
</tr>
<tr>
<td>Dilapidated infrastructure</td>
<td>Improved infrastructure</td>
</tr>
</tbody>
</table>
Managing perceptions on the reform process

Reform programs succeed when they are well understood and supported by the people most affected by them. Any reforms process must therefore seek to manage perceptions about it and secure political and social goodwill from stakeholders.

As the principle sponsor of the Water Act 2002, the Ministry of Water and Irrigation was conscious about the implications of implementing structural changes in water resources management practices and delivery of water services.

With support from development partners, including GTZ and the Water and Sanitation Program-Africa, the Ministry developed a framework for reform communication and highlight the priority issues and audiences that need to be addressed so as to build understanding and generate support for the reforms.

A major potential stumbling block to the reform process, identified through a situation analysis, was the low level of awareness and misconceptions of the reforms across the key stakeholders, including fears that it would result in increased cost of water; loss of revenue by local authorities; job losses within municipal and city councils; lacking access to water by poor people; and exploitation from the private sector.

Stakeholder groups that posed a serious threat to reform process included legislators and civic leaders; key policy and decision makers in government; unionisable staff of local authorities; and civil society institutions, especially NGOs.

Poor overall coverage of water issues by the media was also identified as a threat, especially in perpetuating confusion between the implications of privatization and commercialization. Overall, however, the situation analysis revealed a generally positive attitude towards the reforms. This was associated with overwhelming consumer dissatisfaction with the existing performance of water services.

The situational analysis entailed intensive desk research of records on the water sector; a rapid assessment survey of 3,000 adults across the country; focus group discussions and in-depth interviews with individual representatives of stakeholder groups; and, a media content analysis over a one-year period to determine coverage patterns by national newspapers. This formative assessment was followed by a workshop for key stakeholders to share results and familiarize them with the process of developing the communications strategy.

A series of consultative meetings were also held with vital decision makers in government, including the Ministry of Water and Irrigation and the Nairobi City Council.

The resultant communication framework proposes the following strategies: internal communication to increase knowledge, build support for reforms and address new and existing concerns among staff directly affected by the reforms; and media advocacy to promote accurate and analytical coverage of reforms and WSS issues.

It also recommends mechanisms for public participation mechanisms through which the reforms process can engage opinion leaders, implementation partners, and the general public; and a phased and branded multi-media communication program to increase knowledge on the reforms and to motivate consumers to support the reforms. Initial focus is on reform communications before advancing to longer-term communication strategies.

To support its execution, the strategy recommends the strengthening of capacities within the Ministry and other new institutions created under the Water Act 2002. Overall implementation of this is being overseen by the Water Sector Reform Secretariat, currently housed within the Ministry.

By Toni Sittoni, Communications Specialist, Water and Sanitation Program-Africa
New firm takes over city water services

Water supply to Nairobi’s 2.5 million residents has long been plagued by inefficiencies arising from complex logistical and management problems at the Nairobi City Council. Therefore, a priority strategy of the water sector reforms was to delink this crucial supply function from the NCC.

The Nairobi Water and Sewerage Company (NWSC), which was officially launched on August 19, 2004, has already taken over this operation. Conceived along the lines of a private sector enterprise, with an autonomous board of directors, its job is to take over the Water and Sewerage Department of the NCC and stabilize the city’s water provision and sewerage services.

The World Bank is helping finance the project through a Sh800 million grant over three years. As part of this project, the new firm will streamline revenue collection by reorganizing the chaotic water billing system which has for many years been crippled by corruption. The overall objective is to build a strong governance, institutional and service delivery framework for the efficient delivery of water and sewerage services to Nairobi residents.

A preliminary World Bank-funded appraisal done in 2003 concluded that water collections barely covered expenses and cost of production. The NWSC is expected to increase collection rates so as to generate a tidy surplus for investment and for general improvements in the sector.

An impending snag is the issue of asset and liability transfer from the NCC’s water and sewerage department to the Nairobi Water and Sewerage Company. In light of the fact that NCC owes US$152.5 million in water-related loans that were not being serviced, the World Bank appraisal recommended that the liabilities assumed by the new firm needed to be consistent with the assets transferred to it as a way of assisting the new company to get on its feet. It also proposed that these assets and liabilities be detailed. However, the true picture of the arrears on water bills still to be collected from customers had yet to be ascertained as the NWSC was being put together.

With only about 187,000 or 42 per cent of households in Nairobi having proper water connections, the water supply situation is indeed a bad one. This in turn has impacted negatively in the area of sanitation.

It is the poorer residents and those in the slums that, in general, suffer the lack of piped water supply most. They make do with freelance vendors or by making illegal water connections. This same group suffers disproportionately because the third party sellers they rely on charge much more than the tariff paid by those who are directly connected to the Nairobi water supply.

The paradox of Nairobi’s water supply is that production outstrips demand and yet there are shortfalls. Consumption being 350,000 cubic meters a day and the supply at 392,000 cubic meters daily it means that if existing capacity is properly utilized there would be no shortfalls in supply.

The reason for the current shortfalls is because of illegal connections and unaccounted for water. If these are reduced, the shortfall of water would be a thing of the past. Indeed the optimum capacity is 592,000 cubic meters a day, meaning that the NWSC can supply water comfortably up to the year 2010.

Obsolete infrastructure and equipment such as faulty meters and dilapidated pipes are responsible for the huge losses caused by water spillage. Fixing this problem is one of the things NWSC has prioritized.

With monthly collections averaging Kshs 120 million, revenue from water connections has been one of the main income-generators for the NCC. The figure kept fluctuating widely, which was attributable to the shortcomings in the billing system and the fact that many consumers exploited loopholes that allowed them not to pay.

Under the outdated system, consumers were being charged for water consumed six months previously due to inordinate delays in tabulating and distributing consumer bills. NWSC wants to shake up the system and make it up-to-date, and already residents have noticed a new punctuality since the company took over.

By Gitau Warigi, Editorial Consultant
Public toilets are essential for public health management in any urban concentration and play a crucial role in safeguarding the environment from human waste pollution.

In Nairobi, there are only about 140 public toilets serving the metropolitan zones of Kenya’s capital city. Many of these were constructed by colonial authorities more than four decades ago, and have since been run by the Nairobi City Council. However, poor management and neglect led to their disuse. Many public toilets were characterized by dirty and unhygienic environments, lack of privacy, insecurity, and poor accessibility.

At the turn of the millennium, the City Council approached WSP-Africa for technical assistance on how to transform Nairobi’s public toilets from public hazards into public conveniences. This field note contends that even though private sector participation still requires intensive involvement of the Council in ensuring services are provided, evidence from other comparable urban situations suggests that the result will require less Council resources and lead to significantly better services for consumers, customers and voters.

The benefits to be accrued from private sector participation in public toilet management include efficiency gains, improved quality of service, and the ability to raise funds for refurbishment.

Tapping lessons from studies of refurbishment, management, and operation of public toilets in Ghana, Burkina Faso, Uganda, and India, WSP-Africa investigated the options and scenarios for private sector participation in managing Nairobi’s public toilets.

Sanitation and Hygiene in Kenya: Lessons on What Drives Demand for Improved Sanitation
Published by WSP-Africa, June 2004

What drives demand for improved sanitation and uptake of hygiene practices? What can we learn from these influences to achieve sustainable sanitation?

Based on a study in Kenya, this field note summarizes the findings of an assessment on the impact of sanitation technologies in households, and discusses factors that have influenced demand for specific sanitation technologies used presently and in the past. Thanks to historical influences from the colonial era and its relative affordability, the pit latrine is singled out as the most successful excreta disposal facility in Kenya. About 73 percent of the population having access to this facility.

But in modern-day Kenya, the primary demand drivers for sanitation are associated with health and hygiene awareness and education, and the individual desire to be in good health and to prevent spread of diseases. Other influences are related to the effects of land sub-divisions, densification and the resultant need for privacy; and the availability of monetary and technical assistance to support sanitation projects. Even with these compelling drivers, national coverage of adequate sanitation stands at less than 50 percent.

The field note identifies sanitation coverage, operation and maintenance and excreta re-use as some key issues that have constrained large-scale adoption of sanitation technologies. Limited financial resources are also a major constraint to sanitation coverage, as well as lack of awareness about sanitation and hygiene, and limited knowledge on how to construct, use and maintain pit latrines.

Addressing future strategies for sustainable sanitation, the field note observes that gradual progress is being made in adopting excreta re-use technologies (ecological sanitation) such as Skyloo, Arborloo and Fossa Alterna. This study fits into a regional initiative by WSP-Africa to collate information on interventions and trends that show relative success in improving sanitation and change in behavior, and how these lessons may inform policy formulation.
The Nairobi Water Sewerage and Institutional Restructuring Project was launched at a colourful ceremony in December 2004. The project seeks to maximise operational efficiencies of the Nairobi Water Services Board (WSB) and the Nairobi Water Services Company (NWSC), the two key water service delivery organs in the city.

It has a three-year, three-phase component that covers utility establishment, service delivery and project monitoring: to support the operationalisation of NSWB and NWSC; strengthen the commercial and technical viability of the NWSC; and implement a follow-up communication and monitoring program that will assess the overall impact of the water-reform investment.

The December launch was attended by the respective boards of the NWSC and the NWSC, as well as representatives from the Ministries of Local Government and Water and Irrigation, the Nairobi City Council, the GTZ, AID, residents’ associations and Clerks to the Kajiado, Thika, Machakos, Makueni, Kiambu local authorities, which fall in the domain that NWSB will cover.

The formal launch of the NWSC came earlier, on August 19. It was another colourful occasion at the Company’s Industrial Area premises which was attended by over 500 guests, including city MPs, members of the business community and representatives of development partners. Dr Manu Chandaria, chairman of the Kenya Private Sector Alliance, was the chief guest.

So far, it is the only NWSB which is operational out of the seven regional Boards envisaged under the Water Act 2002. The 12-member Board is representative of widely varied interests such as the Government, Residents’ Associations, institutional interests, local authorities and the NCBDA.

The restructuring project will do more than serve as the benchmark for the operations of the NWSB and the NWSC.

According to project implementers, the lessons it will provide will guide the manner of the implementation of the other six regional WSBs. One innovation of the ongoing water sector reforms is that private service providers will be licensed to compete with the big, quasi-official entities like the NWSC.

Though as of now the licensed providers in Nairobi, Mombasa, Nakuru, Eldoret and Nyeri have been off-shoots of the water and sanitation departments of these municipalities, there are plans to bring in many others drawn from residents’ associations, government institutions and private operators.