Theme 4 Report

Governance and Management

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I. Introduction

The water and sanitation crisis is essentially a crisis of governance-of weak policies and poor management rather than a crisis of scarcity either of water or of funds.

Key to overcoming the crisis are sound policies and political will; efficient service providers who are accountable to users, particularly the poor; partnerships between an enlightened public sector and a responsible private sector; regulation to ensure that people receive adequate services at affordable prices and are able to live in a healthy environment; and overall, a new water and sanitation ethic in society that respects the needs and dignity of people without harming the environment.

This Theme explores the crucial determinants of good governance and management and draw together discussions on: the *Right to Water and Sanitation* for improved access; Institutional arrangements and regulatory approaches for efficient and effective water management; ethics, transparency and empowerment and optimizing public and private roles in water services.

II. Key Sound-bytes

A. Implementing the Right to Water and Sanitation for Improved Access (Topic 4.1)

With six years remaining until the Millennium Development Goals (MDGs), deadline, the number of people without access to safe water and sanitation has increased rather than decreased. Global demand for water is increasing due to rising population and the increase in demand from industry

and agriculture while at the same time freshwater resources are being degraded due to poor land use practices and pollution. Poor people, clearly, are the worst affected. The right to water and sanitation (RTWS) is an entitlement held by all human beings that is solidly anchored in international human rights law and a rights-based approach to the provision of water supply and sanitation provides a path through which access to safe water and sanitation can be achieved for the poor. .

The central value of recognizing the right to water and sanitation as a legal right is in providing a basis for people to hold governments and service providers accountable. Consequently, the RTWS carries with it the capacity to create the political will necessary to generate substantial reform in

practice, policy and law and monitoring at the local, regional and global levels – in particular in the provision of services to the poor and marginalized groups.

There is ample evidence of the right to water and sanitation being increasingly included in laws and policies across world regions and legal traditions. In addition, the contributions to the sessions demonstrate that there are numerous examples of how the various elements of the right to water and sanitation can be implemented in practice by governments. There are also a range of examples in which the RTWS has been used as a tool for advocacy and empowerment by civil society groups.

Recognition of the right to water and sanitation requires both support for legislative frameworks and the strengthening of civil society voices in order to realise these rights in practice.

B. Institutional Arrangements and Regulatory Approaches for Effective Water Management (Topic 4.2)

In recent years, the critical importance of good governance and effective institutional arrangements has gradually been recognised. Traditionally, the water sector has been driven by technical considerations and physical projects and the recent interest in the 'soft' side of water development is well overdue. However, the water community is still struggling to come to terms with governance and institutional issues and much remains to be done.

For water services effective governance systems are fundamental given the monopoly nature of providing services, governments have a clear responsibility to regulate more effectively to ensure services are provided to all and public funds are managed effectively. With water being used by

many economic sectors and managed by different authorities at different administrative levels, it is increasingly critical to apply an integrated approach to managing resources. Government has to handle increased responsibilities and must put in place the policies, laws and planning processes to balance water use with sustainable resource management.

C. Ethics, Transparency and Empowerment of Stakeholders (Topic 4.3)

Whereas enough water resources exist for every person in the planet, factors such as deficient governance, water misuse and corruption are preventing people from having affordable and safe access to water, which affects food and energy production. It is estimated that USD 50-60 billion are lost per year from the water and water-related sectors because of corrupt and unethical practices, and certainly, the poor suffers the most. So, timely and adequate investments in good governance and water integrity to counter these losses are most urgently required. A small reduction of the losses can have tangible positive impacts on improving efficiency and sustainability of the water resources management, which will encourage further investment to the sector.

To incorporate good governance and water integrity into water management policies and practices, it is necessary to reduce/prevent corruption at all levels of governance, to increase public participation from all the stakeholders, and to ensure transparency in the decision making process and political/administrative accountability. Governments are requested to support programmes – at

local, national, regional and global levels – to ensure good governance and water integrity in the management of water resources and services.

D. Optimising Public and Private Roles in Water Services (Topic 4.4)

The roles and responsibilities of both the public and private sector in providing the full spectrum of urban water services, equipment provision, finance and capacity development has continued to evolve over the past 15 years. Following an initial focus on the role of multinational water service providers in achieving expanded water service provision, the current discussion has significantly broadened to include the entire supply chain. And the discussion is increasingly focused on ways to make these supply chains sustainable, both through strong regional and local contributions and through strategic partnerships with national and/or international suppliers.

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The importance of recognizing and building the capacity of regional, local and small scale service providers is now viewed as one of the key issues behind achieving success in restructuring public and private roles in the optimal provision of water services. The sessions under topic 4.4 are designed to summarize experience to date and to address the key questions leading to better ways to combine emerging private sector interest and capabilities with the need for strong national and local control and local capabilities.

III. Key Problem Statement

A. Implementing the Right to Water and Sanitation for Improved Access (Topic 4.1)

Session 4.1.1: From Right to Reality - Good Government Practices for Implementing the Human Right to Water and Sanitation:

Virtually all States have now endorsed the right to water and sanitation in one or more political declaration and about 30 States have included or have taken steps to enshrine the right in their constitutions, legislation, policies and programmes. The next crucial step for governments now is to operationalise the right to water and sanitation in practice. The focus of the session will be on implementation at the national and sub-national level, but examples of implementation through international mechanisms will be also considered.

Session 4.1.2: Rights in Action: How civil society can use the Right to Water and Sanitation to promote access for the poor.

In some cases, users have successfully mobilised their communities to advocate for the right to water, resulting in improved access to water, however, the number of these cases seem to be limited. So, can a rights-based approach truly help to improve access at a significant scale for the poor and the marginalized? It is important to look at how civil society, government and other actors have contributed to improving people's access to safe water and sanitation, and how the implementation of the Rights to Water and Sanitation impacted on government policies. The focus of this session

will be on good practices in mobilisation by users to understand and claim their rights, and participatory and accountability mechanisms through which users can access and assert their rights.

Session 4.1.3: Making the right to sanitation work: What has been delivered by the International Year of Sanitation and what must now be done to progress sanitation entitlements?

UN estimates that 2.5 billion people, 40% of the world's population, lack access to adequate sanitation. The International Year of Sanitation, 2008, has contributed to   increased interest and activities focussing on sanitation and governments and development agencies have started exploring the implications of recognising the right to sanitation. However, the sanitation target of MDG 7 remains distant and will not be achieved by 2015 if business continues as usual. This session will explore the limits of the right to sanitation, the obligations of governments and the role of individuals and communities in regard to sanitation, the effectiveness of subsidies and the acceptable minimum standards for the right to sanitation.

Session 4.1.4: Rights Based Approach in Emergency: Limits and Opportunities

So far, discussions on the right to water and sanitation have focused on development situations and on the chronically underserved, with little attention being paid to emergency situations. However, every year tens of thousands of people are deprived of access to water and sanitation as a result of armed conflict, natural disasters or complex political emergencies. In disasters and conflict situations, evoking the right to water and sanitation could support emergency measures. This session will consider the value that a human rights-based approach can add to emergency response, and how such an approach can support the transition from emergency response to long-term rehabilitation and development, and what steps are needed for the humanitarian sector to better entrench human rights.

B. Institutional Arrangements and Regulatory Approaches for Effective Water Management (Topic 4.2)

Session 4.2.1: The Big Picture: How to make institutions and plans deliver progress?

For water management at any level to be improved, institutions must include water from the outset in economic development plans. Water plans can provide an effective framework for actions, including economic regulation, benchmarking and other stimuli for improved performance in the water sector. Are management and efficiency plans an effective way forward to gain wider momentum behind the water agenda? This session will discuss how to mainstream water management in national development planning, so it has a higher government priority, how to improve institutions, policies and laws at all levels and how to get more effective institutional performance. Institutional structures and planning systems at both national and local levels will

be reviewed with a view to identifying the success factors in delivering better water services and more integrated and sustainable resource management.

Session 4.2.2: Optimizing and improving water systems: regulation as a key issue for the water and sanitation sector

This session focuses on regulation. It will consider how regulation can implement government policies, and how to make regulation more effective, looking at existing tools developed by different national authorities or by professional associations for the assessment of water utilities (benchmarking, direct competition, among others). It will also consider different indicators for the assessment of the effectiveness of water utilities; and evaluating transparency and users' involvement in different decentralized water management systems. The role of national and local authorities will be discussed and the effects of decentralisation on governance, in particular regarding accountability in water services, assessment of equity, efficiency and effectiveness of water utilities.

Session 4.2.3: River basin management in federated countries: is this realistic?

In countries with federal systems of government there are multiple sovereignties over water and responsibilities are decentralised to different levels of authority resulting in specific challenges. The session will look at how to use an integrated approach to coordinate and balance responsibilities across the different levels to clarify who is responsible for what. The legal frameworks that are needed to help overcome conflicting interests and to encourage public participation will be examined. The need to understand the practical experiences, technical and institutional challenges and consensus building processes of IWRM and river basin organizational models will be addressed drawing on experiences adopted in federal countries within the national political and institutional framework.

Session 4.4.4: Playing it Safe: Can regulation reduce risks?

This session covers two inter-related issues – safe drinking water and safe water re-use. Increasingly water management has to consider how to manage risk better for both drinking water and for safe water reuse for agriculture. In reality, relevant regulations are often limited in protecting health as sampling and analysis cannot provide results quick enough to prevent contaminated water being consumed. There is a need to share experiences on (Drinking) Water Safety Plans (WSPs) across key sector support agencies in rural and urban contexts to get wide-ranging and harmonized support for their implementation by relevant authorities, and ways to

scale-up the implementation of WSPs should be discussed. Also the risk to food safety and agricultural workers associated with the re-use of water for agriculture, particularly untreated wastewater, needs to be addressed. In this session, set of recommendations for pathways for safe re-use of water in food production, regulatory approaches identified for addressing the risks to food safety, food security, biodiversity and the environment will be discussed.

Session 4.2.5: Opening Glass Doors: What regulation can improve openness and transparency?

To be effective governance systems must allow transparency and public participation, particularly for the poor and marginalised. International agreements such as the Aarhus Convention or the Public Information Act encourage the involvement of stakeholders. The right to information access can improve the regulatory function and help to forge an open relationship between people and their Governments, one in which government accountability, transparency and responsiveness and people's responsibilities and duties are linked. The session will share experiences and determine processes to establish such regulation based on openness and participation, and consider the effectiveness of various forms of public participation in practice.

C. Ethics, Transparency and Empowerment of Stakeholders (Topic 4.3)

Session 4.3.1: How can public participation empower stakeholders and lead to a better water resource management

Delivering services is more than finance, infrastructure and technology. It is also about empowerment of people and communities. Performance, transparency, democratic control, user participation and a regulatory framework form the basis of good management of public water and sanitation services. One of the key questions this session will address is the relevance of governance and public participation for improving leadership and performance in the water education, water supply and sanitation sector and promoting a new water use in the world.

Session 4.3.2: On Transparency and Accountability in the Water Sector

Despite the general acceptance of transparency as a key element of water governance, still the exact content is not fully developed. Transparency is usually connected to the availability of government information. However, there are calls to make available not only that information, but the one held by those entities that collaborate with governments to deliver water services and manage water resources. This session will discuss how, and to what degree, transparency

contributes to tackle universal access to potable water, increases coverage of sanitation, enhances the environment and secures food supply.

Session 4.3.3: Building an Ethical Water Sector: Integrity, Accountability and Preventing Corruption

A lack of integrity in decision making and poor accountability between consumers, service providers and regulators are weak links in the governance of the water and environmental sanitation sector in many countries, opening the door to corruption. A large proportion of sector investments are lost through corruption, which is a scourge of the construction sector in general, and that dishonesty and a failure to follow good practice regularly lead to selection of inappropriate technologies, higher costs or reduced sustainability. Building stronger systems of ethics and

integrity are the key to preventing corruption, and also to improving local water governance and delivering better services. This session will explore ways how to do it.

D. Optimising Public and Private Roles in Water Services (Topic 4.4)

Session 4.4.1: Towards a Vibrant Local Marketplace – Opportunities and Trends, Experience to Date, and Policy Options for the Future

This session is meant to answer key questions central to the topic theme of how we can better optimize the roles of the public and private sector in the provision of water services and how to set the stage for policy advances related to this important topic. In the context of lower and middle income countries, the different models for optimizing public and private sector roles and responsibilities across the full spectrum of the supply chain, and the likely trends in both public and private capabilities will be explored. Also based on the lessons learned from different approaches taken during the past 15 years, this session will discuss the opportunities for developing international, regional, national and local policies that would lead to clearer, more diverse and more effective public and private roles.

Session 4.4.2: Options for the Delivery of Water and Sanitation Services in a Rapidly Changing Environment

This session focuses on the specific issues, experiences and policy recommendations related to a wide range of different options for the delivery of water and sanitation services (also commonly

called water utility service provision). This session will explore the alternative institutional and regulatory arrangements that have been demonstrated to support good utility performance under appropriate circumstances and discuss how performance standards are set and enforced between the authority responsible for water provision and the designated provider. Also ways to harmonize the main points of the Local Government Declaration, which was adopted at the 4th WWF and has been widely accepted, especially with national government roles and policies, particularly with respect to regulation, will be discussed.

Session 4.4.3: **Building Sustainable Water Supply Chains with Strong Regional and Local Contribution – Experience and Potential Policies**

Most experts agree that a healthy supply chain is essential to the sustainable provision of water and sanitation services at the local level, but often these supply chains are lacking or inadequately developed in many of lower income and lower-middle income countries. Are our development practices and policies aligned with the fact that urban water security, reliable urban water and sanitation provision and locally viable provider supply chains are inextricably linked? If the answer is no, we need to explore how we get there. This session will look at the enabling environment, which makes possible the local emergence of reliable private partners for design, equipment manufacturing, construction and service provision among others, and what opportunities exist to encourage new national, bank and donor policies that stimulate the strengthening of regional/local

supply chains leading to regionally sourced and locally understood technologies. How to stimulate the adoption up-to-date know-how and win-win technological transfers through these policies will be also discussed.

IV. Overall Thematic Conclusions and Recommendations

1. Water and sanitation service provision based on recognition of the right to water and sanitation is an outcome in itself as it ensures transparent, non-discriminatory, participatory processes and accountability in government.

2. Recognition of the right to water and sanitation requires both support for legislative frameworks and the strengthening of civil society voices in order to realise these rights in practice.

3. Water planning should be embedded into national development plans, and ways to improve institutional structures, laws and policies should be explored.

4. Regulations need to be more effective and beneficial for consumers and for the environment, and regulatory frameworks guaranteeing water service accountability need to be established. Citizens' involvement in the regulation of water services should be enhanced and better stakeholder participation, more transparency and accountability should be realised through improved governance systems.

5. Importance and need for regulation of safe re-use of wastewater for agriculture is acknowledged and will be promoted in different national and international forums, while progress on the use of Water Safety Plans need to be scaled up.

6. Governments need to support country-based, regional and global programmes to ensure good governance and water integrity in the management of water resources and services across the world.

7. Topic 4.4 conclusions/recommendations to be provided later.

8. In the context of lower and middle income countries there is a need to identify models that optimize public and private sector roles and responsibilities to ensure that emerging private sector interest and capabilities are combined with strong national and local control and capabilities.