

# **Policy, Legal and Institutional Analysis for WASH Sector in Malawi**

**(Mobile)**

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## Abbreviations

AEC	Area Executive Committee
APHRC	African Population and Health Research Centre
ASPG	Africa Sanitation Policy Guidelines
BCC	Bahaviour Change Communication
CCODE	Centre for Community Organization and Development
CHA	Community Health Assistants
CHAG	Community Health Action Group
CLTS	Community Led Total Sanitation
CSO	Civil Society Organizations
CUCI	Crisis Urban Cash Intervention
DCT	District Coordinating Committee
DWSS	Department of Water Supply and Sanitation
DP	Development Partner
JSR	Joint Sector Review
GOM	Government of Malawi
IDA	International Development Agency
KII	Key Informant Interviews
LCC	Lilongwe City Council
MDA	Ministries, Departments, and Agencies
MDGS	Malawi Development and Growth Strategy
M&E	Monitoring and Evaluation
MHEN	Malawi Health Equity Network
MHRC	Malawi, the Human Rights Commission
MoA	Ministry of Agriculture
MoEST	Ministry of Education Science and Technology
MoGCDSW	Ministry of Gender, Children, Disability, and Social Welfare
MoLG&RD	Ministry of Local Government and Rural Development
MoH	Ministry of Health
MOU	Memorandum of Understanding
NGO	Non-Governmental Organization
NPC	National Planning Commission
NSA	Non-State Actor
NSO	National Statistical Office
NSHS	National Sanitation and Hygiene Strategy
NSHTC	National Sanitation and Hygiene Technical Committee
NSP	National Sanitation Policy
NSO	National Statistics Office
NWP	National Water Policy
ODF	Open Defecation Free
OIBM	Opportunity International Bank of Malawi
OPEC	OIL and Petroleum Exporting Countries
ORT	Other Recurrent Transactions

PHA	Public Health Act
PPP	Public Private Partnership
SDG	Sustainable Development Goals
SWAP	Sector Wide Approach
SWG	Sector Working Group
TA	Traditional authority
TOR	Terms of Reference
TWG	Thematic Working Group
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Emergency Fund
USAID	United States Agency for International Development
VHC	Village Health Committee
WASH	Water and Sanitation
WFP	World For People
WHO	World Health Organization
WPC	Water Point Committee
WRDMS	Water Resources Development, Management, and Supply
WUA	Water Users Association
WVI	World Vision International

## Acknowledgment

This study was made possible through the valuable support of many people. We would like to sincerely thank the African Population and Health Research Centre (APHRC) and the team of Innovia Consulting Researchers in Malawi – Prof. Wiseman Chijere Chirwa who conducted the initial desk reviews and preliminary report, and Ms Rose Sakala who conducted the interviews. Innovia Research Consulting Team Leader, Opiyo Makoude, consolidated the desk review and key informant interview findings. Innovia Research Consulting sincerely thanks all the partners who provided information, and those who supported this assignment in various works without whom this report would have been incomplete.

## Executive Summary

This report presents a review of the Water, Sanitation, and Hygiene (WASH) sector in Malawi, commissioned by the African Population and Health Research Centre (APHRC), as part of a two-country (Mozambique and Malawi) study. The study sought to inform the implementation of a 3-year national sanitation policy advocacy project in eastern Africa, which is aimed at supporting countries to develop or review their policies. The analysis will contribute to making the countries compliant with the Africa Sanitation Policy Guidelines (ASPG), which were developed to harmonize the process of policymaking and promote best practices with regards to the content of a good sanitation management policy. The report draws from thorough and extensive reviews of Malawi's WASH sector legal and policy documents, internet searches on WASH and related issues in Malawi and other countries, and interviews with key informants in Government, donor institutions, and non-state WASH services providers.

### Key Policy Messages

- 1) WASH policy issues have traditionally been plagued by fragmentation. Policy frameworks are spread out across several line ministries without central coordination, which constrains effective coordination of the WASH sector, and is worsened by the existence of a number of fragmented legal and policy instruments, some of which are outdated leading to disharmonized guidelines.
- 2) Key investments in the sector are donor-dependent and operate in silos without synergetic linkages with planning and among themselves, despite attempts at a sector-wide approach.
- 3) The WASH sector has experienced some major achievements in service delivery, but the sector is yet to fully meet international standards due to bottlenecks in the service delivery systems, uncoordinated planning leading to inefficiencies and wastage, and effects of some natural disasters such as those associated with climate change and poor environmental management.
- 4) Private sector involvement in WASH is rather limited and expedient, though potentially crucial. Capacities for implementing public-private sector partnerships are still inadequate.
- 5) Accountability mechanisms for WASH service delivery systems are weak though there is growing interest in the participation and involvement of non-state actors and the citizenry in these matters.
- 6) Recent public sector reforms, including the launch of the Malawi's Vision 2063, and the establishment of the National Planning Commission, have created new opportunities for coordination, proper planning, and effective management of the WASH sector – especially within the context of policy decentralization.
- 7) The creation of a new line ministry responsible for water and sanitation provides an added opportunity for embarking on comprehensive policy reforms in the WASH sector.

## Recommendations

Based on a review of the evidence, the following recommendations are made:

### *1. Leadership and governance*

The first set of the recommendations are related to leadership and governance at the central level of the WASH sector

<b>Issue 1</b>	<b><i>Ill-defined leadership and governance for coordination at the central level</i></b>
<b>Policy Bottleneck</b>	Until recently leadership and governance structures for coordination of the WASH sector were not properly defined and coordinated from Central Government to Local Authorities, with poor linkages and delegation from the top to the bottom. WASH functions were spread out in several line ministries and other state bodies, and there was non-alignment with decentralization frameworks. Moreover, the TORs of the WASH SWAp governance structures are not aligned with WASH sector related strategic plans
<b>Consequences</b>	There has been reduced functional effectiveness of legal and policy instruments; weak leadership and governance structures and ineffective accountability mechanisms. Besides, planning and implementation indicators are unclear and unsystematic, with poorly developed feedback mechanisms
<b>Recommendations</b>	<ul style="list-style-type: none"><li>(i) Government should move all key WASH functions to the newly created Ministry of Water and Sanitation</li><li>(ii) TOR for the WASH SWAp – the SWG, TWGs and JSR should be reviewed and aligned with planned WASH programmes and their deliverables so that achievements are effectively monitored</li><li>(iii) There is need to create special budget lines for leadership and governance structures at the central level to enhance effectiveness in their operations, and for cascading and replicating leadership and governance structures at Local Authority levels, with funding for their operations</li><li>(iv) Build capacity for reporting of the leadership and governance structures at Local Authority level</li></ul>



**Issue II*****Incomplete harmonization of WASH sector legal and policy frameworks*****Policy Bottleneck**

Key regulatory frameworks for WASH sector governance are not fully harmonized. There is inconsistency in the guidelines provided for WASH across legal and policy guidelines. The principal WASH sector legislation is outdated, and not fully aligned with the current political realities.

**Consequences**

Weak regulatory frameworks that spawn inequitable resource distribution and allocation among key WASH bodies/institutions

**Recommendations**

- (i) The Ministry of Water and Sanitation, jointly with the National Planning Commission should expedite the process of reviewing key laws and policy documents relevant to the effective functioning of the WASH sector
- (ii) Prioritize the review of the laws and policy documents that operationalize the autonomy of Local Authorities, Water Boards, and other semi-autonomous services providers to align them with national priorities

**Issue III*****Ineffective WASH sector policy planning*****Policy Bottleneck**

WASH policy planning is tied up with individual ministerial policy priorities, which leads to its low prioritization in the respective ministries, vis-à-vis other ministry priorities

**Consequences**

WASH ranks lower compared to other key ministerial policy mandates and priorities

**Recommendations**

- (i) Institutionalize WASH policy planning in the Ministry of Water and Sanitation and the National Planning Commission (NPC).
- (ii) NPC should mainstream and prioritize WASH in all the three pillars of national development outlined in MW2063
- (iii) In collaboration with the Ministry of Water and Sanitation, NPC should commission periodic policy reviews and WASH guidelines for other stakeholders

**Issue IV*****Limited and ineffective functionality of oversight and accountability structures***

**Policy Bottleneck** There is sub-optimal functionality and effectiveness of oversight and accountability structures at all levels of the health sector, perpetuated by weak regulatory frameworks and mechanisms across the sector

**Consequences** Weak mandates and powers of oversight and accountability structures mean that recommendations of oversight and accountability bodies do not always get acted on. In most cases, community concerns and voices find little space in policy planning and implementation, and beneficiary participation is often minimal.

**Recommendations**

- (i) Local authorities should sign MOUs and Service Charters with all WASH service providers in their areas of jurisdiction
- (ii) Strengthen the oversight and accountability capacities of Local Authority and community level local governance structures.
- (iii) Roll out and enforce citizen charters at every WASH facility where services are provided

## **2. Coordination of stakeholders**

The second set of recommendations relate to the coordination and participation of non-state and donor partner stakeholders in the WASH sector

**Issue I*****Limited stakeholder coordination and alignment to official WASH sector priorities***

**Policy Bottleneck** Various stakeholders are not properly coordinated from central level to Local Authority level. Major donor-funded programmes prefer to operate in silos; and not all key stakeholders are involved in MOU processes, especially at Local Authority level. In most cases, local Authorities and private sector WASH providers are not meaningfully involved in joint planning, implementation, monitoring and evaluation

## Consequences

The evidence that the principles of aid effectiveness and development cooperation are being enforced at the national and subnational levels is limited; and there is often no systematic updating and alignment of MOUs to national strategic documents.

## Recommendations

- (i) The Government and the development partners should follow and implement the contents of the Sector Wide Investment Plan
- (ii) Implement One-Wash-One budget- One M&E system for the WASH sector
- (iii) Development partners should align their programmes with national WASH strategic documents, policies, and laws; and WASH funding systems should be aligned with government systems. Increased donor support can fragment the provider payment system.
- (iv) There is need to make provisions that enable funds to be pooled from multiple sources as well as pooled purchase of a package of essential services from providers. It is equally important to ensure that ongoing investments into the new financial management information system caters for service delivery needs. This could include access to accounting and reporting modules used by providers.
- (v) Institutionalize joint planning, joint periodic reviews, and joint risk management at both central and local levels, by making these processes mandatory for every WASH programme

## Issue II

### *Inefficient and ineffective Public Private Partnerships (PPPs)*

## Bottleneck

Policy frameworks guiding PPPs in the WASH sector are rather unclear and not consistent with new developments in the sector. This emanates from limited capacity for developing effective PPP frameworks, coupled with the absence of a shared understanding of the concept of PPPs in the WASH sector

## Consequences

There is a generalized lack of capacity for effective PPP negotiation as well as limited capacity for contracting at the central and local authority levels. Furthermore, contracted non-state actors similarly lack capacity, which is exacerbated by very poorly developed institutional mechanisms for value for money assessments and

continuous PPP monitoring at both the national and the local authority levels.

### **Recommendations**

- (i) The Ministry of Water and Sanitation, jointly with the NPC and the Privatization Commission should embark on, and fast-track, the review of PPP policy frameworks and guidelines in the WASH sector
- (ii) Develop a WASH sector infrastructural development plan with private sector involvement and institutionalize and increase the involvement of private sector and CSO WASH service providers in oversight structures at central and local authority levels
- (iii) Build capacity of WASH Sector Managers in contracting, PPPs negotiations and management
- (iv) Review all MUOs in operation in the WASH sector and align them to national strategic documents – including the NSPS
- (v) Local Authority councils should develop and sign MOUs with all the services providers at the district levels

### **3. WASH databases**

The recommendations below apply to all the stakeholders in the WASH sector

#### **Issue I**

#### **Absence of centralized WASH management information system**

#### **Bottleneck**

Unavailability of ready to use and up-to-date WASH databases. The WASH data are scattered across many institutions, and WASH functions are frequently shifted from one ministry to the others. The culture of information sharing is not well institutionalized

#### **Solutions**

- (i) Create a national WASH information management system in the Ministry of Water and Sanitation
- (ii) Development partners, APHRC, and other support institutions should assist the development of WASH databases in local authorities and capacity building in the same



## **I.0 Introduction**

This report is a review of the Water, Sanitation, and Hygiene (WASH) sector in Malawi, commissioned by the African Population and Health Research Center (APHRC). It outlines the country context of the WASH sector; the current water and sanitation situation; assesses the mandates and capacities of regulatory and coordinating entities; and describes the existing legal, policy and institutional frameworks. It also assesses their alignment with the Africa Sanitation Policy Guidelines (ASPG) and the United Nations Millennium Sustainable Development Goals (SDGs), as well as their functional effectiveness. In addition, the report identifies some opportunities for improving greater alignment, coordination, collaboration and investments in the sanitation sub-sector; and the major constraints to improvement of effective coordination, regulation, management, and investments in the sector.

The aim of the study is to provide insights on how the sector is structured in terms of institutional mandates, coordination mechanisms, and the state of current of investments in sanitation. The review examines the extent to which sectoral and cross-sectoral policies, plans and commitments are contributing or are likely to contribute to achievement of targets on investments in sanitation to achieve universal coverage. It also provides insights into how far existing national policies on sanitation are compliant with the Africa Sanitation Policy Guidelines (ASPG), the UN Sustainable Development Goals, and other international development blueprints.

The study was part of a two-country – Mozambique and Malawi – analysis conducted to inform the implementation of a 3-year national sanitation policy advocacy project in eastern Africa, which is aimed at supporting countries to develop or review their policies. The analysis will contribute to making the countries compliant with the Africa Sanitation Policy Guidelines (ASPG), which were developed to harmonize the process of policymaking and the best practices with regards to the content of a good sanitation management policy.

### **I.1 Methodology**

The study adopted thorough and systematic reviews of existing policies, laws, regulatory mechanisms, and institutional arrangements in the sanitation sub-sector in Malawi. It entailed reviewing existing legal and policy documents, conducting internet searches of literature on WASH in Malawi and other countries with similar conditions. Preliminary desk review was synthesized into a combined draft report (including that for Mozambique), which was shared with APHRC. The findings were also used to guide the development of a key informant interview (KII) guide, which was used for conducting interviews with key officials in selected WASH provider bodies in the country. A total of 15 Key Informant Interviews (KIIs) were carried, with respondents drawn from Government (6 KIIs), donor institutions (4), and non-state bodies (5) that work on WASH aspects. The data was organized, cleaned, analyzed thematically and triangulated based on the general objectives of the study. The data was interpreted and the findings used to prepare this report.

## I.2 Limitations

WASH functions in Malawi are spread out in several line ministries. Not all these could be reached for this assignment. In addition, databases on WASH in the country are not centralized, which made it difficult to access some key documents that are not publicly available. Over the years, there have been so many changes in the designations and mandates of the line ministries responsible for WASH matters in the country, which results in institutional memory losses. In turn, this leads to gaps in the available information and affects the extent to which developments in the WASH sector can be chronologically documented. Given the limited time available for this assignment, some of these limitations could not be resolved.

## 2.0 Findings

### 2.1 The country context of the WASH sector

The main actors in the WASH sector in Malawi are: the Government (Central Government and the Local Authorities), state owned enterprises in the form of water boards, development partners, the non-state agencies in the form of international and local non-governmental organizations (NGOs), and the beneficiaries – in some cases organized as Water Users Associations (WUA). The private sector currently plays a very minimal role. This position was recurrently confirmed by most stakeholders interviewed. Most decried the limited private sector engagement in WASH, with some observing that private sector companies mostly chased after profits; and tended to be involved in such activities such as borehole drilling, and supplying of spare parts needed to fix or maintain the boreholes

#### 2.1.1 State actors

The designation of the line ministry for WASH changes from time to time. WASH functions have sometimes fallen under the Ministry of Water and Sanitation, Ministry of Agriculture, Irrigation and Water Development; and at other times under the Ministry of Water and Sanitation. At the time of this study, the Department of Water Supply and Sanitation (DWSS) under the Ministry of Water and Sanitation had the overall responsibility of providing potable water. It is still nascent, having been created in 2020 with the stated objective “to increase availability and accessibility of potable water for socio-economic growth and development” and spearhead efforts aimed at achieving the Malawi Vision 2063 (MW2063) targets and SDGs on water supply.

The purpose of the Department is to facilitate provision of potable water services to rural communities and supervise the technical services of Water Boards for urban water supply in line with the National Water Policy, 2005. The Ministry is still understaffed, with a staff establishment gap of about 70%. Moreover, there is no act of parliament backing up the establishment of this ministry, as such it is not legally gazetted, which puts its operations on weak legal basis and its operations can be challenged especially regulatory functions.

There is a further disjuncture with regards to the management of sanitation and hygiene; it is the Ministry of Health that is responsible for coordination. This is still recognized as such even in National Sanitation Policy, which mandates the Secretary for Health to do this, and the latter delegates the responsibility to any appointed officer to coordinate. In practice, however, both the Ministry of Health and the Ministry of Education, Science and Technology, promote health and hygiene education in water and sanitation services, provide guidance concerning the quality of drinking water, intervene to prevent the prevalence of water-related diseases, undertake research in water-related health issues, and carry out activities to prevent transmission of HIV in the water and sanitation sector. The Ministry of Health also has a department that handles environmental health and hygiene.

The National Sanitation Policy created the national sanitation and hygiene coordination unit under Office of the President and Cabinet (OPC), which formed a committee with membership from



all the Principal Secretaries (Ministry of Water and Sanitation, Ministry of Education, Ministry of Health, Ministry of Gender, Ministry of Local Government, Ministry of Environment etc.). This committee is chaired by PS Health and the secretary is PS for Water and Sanitation. This shows that the leadership at policy level in terms of sanitation and hygiene is still with MOH.

Similarly, the technical committee, which is called the National Sanitation and Hygiene Technical Committee is being headed by MOH (by the Chief Environmental Officer who coordinates WASH services and he is also a deputy head of the department). All NGOs implementing sanitation and hygiene are members of this committee; and WESNET hosts the secretariat. Previously, the secretariat used to rotate within NGOs implementing sanitation and hygiene, but at some point, they settled WESNET as the secretariat.

Ideally, the Ministry of Water and Sanitation is only technically responsible for water supply however; in reality, however, it is also involved in sanitation and hygiene. This have given room for subtle territorial fights between MOH and the Ministry of Water and Sanitation. The Ministry of Water and Sanitation coordinates the sector working group headed by the Principal Secretary for water and sanitation. Using this structure, they hold the joint sector review (JSR) meetings which normally should be held annually but for the past three years thno meetings have been held, with the first meeting having taken place only in January this year (2023). JSR should similarly be held at district level to monitor progress.

Before the National Water Policy (NWP), approved in 2005, local authorities (city and town councils) were not mandated to supply water to communities, but were responsible for sanitation through their mandate over waste collection and disposal, and sewerage development. After the introduction of the policy, cities began to provide water to low-income communities through communal water points (kiosks), where people pay a charge. The major engagement of cities with sanitation services is the provision of health education and the training of health and water committees to obtain maximum socio-economic benefits from water supply. The water policy makes local authorities responsible for planning and coordination of the implementation of water and sanitation programmes at local assembly level. In peri-urban and rural areas the communities are organized in WUAs that oversee the management of public water points.

The main providers of water are the water boards. There are five of these: the Northern Region Water Board, the Central Region Water Board, and the Southern Region water Board, which are regional suppliers of water. As the names suggest, each one of them covers a region comprising several districts. The two large cities in the country, Blantyre and Lilongwe, have water their own boards – Blantyre Water Board and Lilongwe Water Board, respectively.

### **2.1.2 Development partners**

In addition to financing and provision of technical support, Development Partners (DP) lead the dialogue with government on WASH issues. Different deliberation mechanisms are used. They include Donor’s meetings, Technical Working Group (TWG), Sector Working Group (SWG) and Joint Sector Review (JSR) meetings. At the time of the study, UNICEF was the lead agency for donor coordination, a position that rotates annually among DPs. Due to the COVID-19 pandemic in 2020 and 2021 meetings were only virtual through Zoom and Teams. SWG meetings

have been rather erratic. For instance, in 2018, the group met only once while in 2019 its first meeting was held in October even though the arrangement is that the group should have quarterly meetings. Following the launch of the MW2063 and the MIP-I, pillar and enabler coordination groups have been formed, among which is the *Hunan Capital Development*, aimed at fostering dialogue among the various stakeholders in the WASH sector.

At their individual levels, the major DP players in the Malawi WASH sector are the World Bank, the African Development Bank, the European Investment Bank, the Exim Bank, the UN agencies – especially UNICEF, and the USAID. In addition to funding large water infrastructural projects (details below), the World Bank has played a major role in supporting the development of the Water Sector Investment Plan that runs up to 2030, and its associated funding plan.<sup>1</sup>The aim is to maximize the benefits to the country by expanding access to improved water and sanitation services, while being financeable. The plan is intended to lead to universal access to water by 2025 and 87 percent access to sanitation by 2030. Part of the funding plan targets the Water Boards. It states that the Water Boards have the capacity to finance the entire urban water investment, if they can increase their performance levels to those of other well-performing African water utilities, and if Development Bank Concessional Finance terms on loans continue to be available.

On its part, UNICEF supports the Ministry of Irrigation and Water Development, other line ministries, district authorities and international NGOs to improve water supply and sanitation in communities and schools – as part of its efforts to make schools more child-friendly and promote girls' education – and promotes safe hygiene practices. The geographic focus is on 14 rural districts that have the lowest coverage. USAID also works closely with the Ministry of Health and Ministry Agriculture and Irrigation to strengthen the Water, Sanitation and Hygiene (WASH) sector. As part of this partnership, USAID is committed to working with the government of Malawi, development partners, and civil society to improve access to and provision of quality WASH services (USAID, 2022).

### 2.1.3 Non-state players

Among the key non-state players in the WASH sector in Malawi are Water for People (WFP), Water Aid, World Vision International (WVI), and the Center for Integrated Community Development (CCODE). WFP signed and launched a commercial partnership agreement with the Opportunity International Bank of Malawi (OIBM), linking peri-urban households to access sanitation loans from the bank. WFP works in partnership with Hygiene Village Project, a local NGO; the Association of Rural Community Development, another local NGO; Blantyre City Council and Blantyre Water Board, Opportunity Bank, a financial institution; and Tools for Education and Enterprise Consultants, a business development service provider. Water Aid has been working in Malawi since 1999, working in partnership with district councils and local NGOs. It concentrates on regenerating existing water systems rather than constructing new ones, and supports communities in setting up water and sanitation committees, which have responsibility for the overall management of water projects. Water Aid uses social marketing programmes on sanitation uptake. WVI supports construction of gravity fed water systems and drills boreholes in a number of districts in the country in partnership with district councils, local community

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<sup>1</sup> Water Sector Investment Plan

structures, and local NGOs. It also supports activities targeting open defecation and sanitation in schools and local communities. There are also a number of local NGOs and community institutions that receive funding and technical support for activities aimed at reducing open defecation in many villages in the country.

CCODE, a local NGO, has been working with a number of development partners in the delivery of water and sanitation in the country. The focus of its work has been on the urban poor, who are cut off from traditional forms of WASH access. Through its water and sanitation programme, CCODE has supported communities to access improved sanitation and water via an urban poor revolving fund called *Mchenga*, the only finance instrument in Malawi that provides water and sanitation loans. CCODE also develops community capacity to manage water and sanitation projects on their own. In collaboration with other partners, CCODE has trained and supported community groups in waste management and processing of waste into compost manure for sale. It also collaborates with academic institutions to deepen their understanding of ecological sanitation.

#### **2.1.4 Sector-wide approach**

A sector-wide approach (SWAp) in WASH has long been considered and is a stated policy aim of GoM, and is also an international policy commitment. There are some institutional apparatuses associated with a SWAp – including donor’s meetings, Technical Working Groups (TWGs), Sector Working Groups (SWG) and Joint Sector Review (JSR) meetings. Currently, UNICEF is the donor lead coordinator for the donors’ grouping, a position which is rotated annually among the development partners. Due to the effects of the outbreak of the COVID-19 pandemic in 2020/2021, meetings were only virtual through Zoom and Teams. SWG meetings have been erratic. Moreover, many donors remain unwilling to pool funds due to fiduciary risks. Even without budget support, other SWAp financing models are available. Both the health and education sectors now have new SWAp funding models – such as Health Services Joint Fund (HSJF) and the Education Sector Joint Fund, which avoid the risks associated with budget support – that offer a blueprint for the WASH sector.

The broad objective of the WASH Joint Sector Review (JSR), introduced in 2008, is to increase shared understanding among the various stakeholders of the role of the water and sanitation sector in the country within the national context of poverty reduction. There has been progress towards meeting the objective and sector adjustments in the form of policy level undertakings being made. The JSR has provided a forum for sector players to share what they are doing. CCODE and the Federation have participated in these reviews and this work has informed the sector’s approach to issues such as gender, water and sanitation in the informal settlements. The financial, planning, and monitoring and evaluation frameworks for the sector remain fragmented. However, strengthening the mechanisms for sector dialogue and adjustment was taken in 2010 with the setting up of the Sector Performance Review (SPR) to provide a critical overview for the sector to identify key undertakings for improving performance (Ministry of Agriculture, Irrigation and Water Development, 2012). One major observation is that there are few extensive urban programmes like CCODE; and the majority of programmes concentrate on rural areas, with their urban programmes, if any, focusing only on hygiene promotion.

The latest JSR sector report highlights the need for agreeing on an approach to achieving the Sustainable Development Goals (SDGs), as well as deciding the degree to which global progress indicators can be integrated with national progress indicators, especially on rural sanitation. It is realized that as Malawi approaches universal access to basic services, much of the effort to meet the SDGs needs to be focused on raising service levels and ensuring the quality and sustainability of supplies. The level of ambition in the SDGs as regards 'safely managed' services is substantially above that of the Malawi MDGs' references to access to 'basic' or 'improved' services.

For the City of Lilongwe, the government has prepared and is implementing the 2020-2025 Water and Sanitation Services Strategic Plan. It aims to achieve effective water services, including the delivery of a sustainable and reliable clean water supply system and safe disposal of wastewater, which is essential for a modern city. The plan takes a 5-year view towards the vision: *to be a leading, customer-focused, financially viable water and sanitation utility in Africa*. It includes interventions on water supply and water resources management, sanitation and hygiene, and WASH in school and health institutions. Specific interventions include:

- Promoting the development of integrated and multi-purpose water supply systems for communities;
- Increasing water availability for productive uses through solar pump and other innovative low-cost solutions, and model community-led climate and disaster resilient Water Safety Plans (WSP);
- Scaling up effective models nationwide; promoting cluster behaviour changes which include access to safe water and hygienic sanitation facilities;
- Hygiene promotion techniques to sustain the practice of improved hygiene behaviours;
- Working with other sectors in related programmes - including the Baby WASH Concept and Care Group model, model programmes that integrate WASH and health/nutrition, building on already existing programmes and structures and delivery channels for health care facilities, communities, and households;
- Improving effectiveness of Community Led Total Sanitation (CLTS) through intentional application of elements of social norms theory to programming;
- Conducting hygiene promotion activities focused on caregivers and children in order to develop handwashing habits at an early age using existing innovative approaches (e.g. group handwashing in schools);
- Supporting environmental conservation and tree planting interventions as part of management of wastewater runoff in schools;
- Working with mother groups and adolescent girls to develop innovative and appropriate approaches for menstrual hygiene management; and,
- Supporting government to establish national school sanitation standards that consider equity and inclusion and establish guidelines for maintenance and use of WASH facilities in schools.

The establishment of CCODE in 2003 was part of the WASH sector approach. CCODE was established as a support Non-Government Organization for the Malawi Homeless People's Federation (MHPPF). The Federation is an organized network of community savings and loan groups of the urban poor across Malawi. This network gives the urban poor a platform for addressing broader development challenges such as water and sanitation, and land and housing.

### **2.1.5 Institutional mandates and coordination structure**

The institutional infrastructure and mandates for the WASH sector and for the implementation of the National Sanitation Policy (NSP) is outlined in the National Sanitation and Hygiene Strategy (NSHS) in addition to the various policy and legal instruments outlined in the subsequent paragraphs below. The NSHS document contains a description of the implementation structures from national level to the community level – decentralized through local government structures. The lead institution, as at the time of the study, is the Ministry of Water and Sanitation,<sup>2</sup> which has the overall responsibility of providing portable water. However, until recently, the lead line ministry was the Ministry of Health and Population – especially for the sanitation and hygiene components of the WASH sector. Other key line ministries include the Ministry of Agriculture, Irrigation and Water Development (MoAIWD), Ministry of Education, Science and Technology (MoEST), Ministry of Gender, Children, Disability, and Social Welfare (MoGCDSW), Ministry of Local Government and Rural Development (MoLG&RD). The private sector and non-state actors are also included. The emphasis is on implementation through NSHS local authorities and their governance structures down to community level.

The NSHP states that the MoHP will lead the implementation process through technical coordination and a consolidated national budget. It is expected that all stakeholder institutions including donors, development and cooperating partners and the academia will align their activities and support to NSHS. At national level, the MoHP is responsible for enforcement of sanitation and hygiene laws in Malawi (CAP34:01 sections 16, 17, 59-95, 106-112) and will lead and coordinate the implementation of NSHS at all levels. The MoAIWD is responsible for the implementation of sustainable management and utilization of water resources in order to ensure sustainable access of water.

The NSHCU with co-opted members from other government ministries and non-state actors (NSA) forms the National Sanitation and Hygiene Technical Committee (NSHTC). The NSHTC is responsible for coordination of sanitation and hygiene interventions at national level, oversight and advisory role at district level.

At district level the MoEST is responsible for ensuring that water and sanitation facilities are available in all schools including CBCCs. The MoGCDSW is responsible for coordinating with government and district Councils to ensure participation of men and women in promotion of sanitation and hygiene practices. The MoLG&RD is responsible for coordinating the sanitation and hygiene through the district coordinating committee (DCT) chaired by the District Environmental Health Officer (DEHO).

The non-state actors (NSA) include the Civil Society Organizations (CSO), Non-Governmental Organizations (NGO), Development Partners (DP), donors and the academia. These are responsible for providing financial and technical support to the implementation of sanitation and hygiene strategy and are part of the NSHTC and DCT committees.

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<sup>2</sup> Note: there have been some changes in the names, mandates, and functions of some of these ministries. In fact the Ministry of Health is still listed as the lead ministry in the NSHS

At community level, sanitation and hygiene activities are done collectively through established community structures. Community Health Action Group (CHAG) is responsible for coordinating sanitation and hygiene activities at group village headman level. The CHAG is part of the Area Development Committee (ADC) and Area Executive Committee (AEC) responsible for identifying hygiene issues and takes them to the council. The CHAG is supported by extension workers and works with Water Point Committees (WPC) and Village Health Committees (VHC) in planning, implementation, monitoring and evaluation of sanitation and hygiene activities in the community.

As outlined elsewhere above, the water boards are responsible for the water services delivery system.

### ***2.1.6 Assessment of institutional mandates and capacities***

The foregoing account suggests that there are considerable overlaps in the mandates of some of the line ministries at central government level, especially between the ministries of Water and Sanitation and Agriculture and Irrigation. The recent (and frequent) changes in the designations, mandates and functions of these ministries complicate the overlaps. It is further noted that these changes do not always include changes in the contents of the relevant policy documents. The result is that the contents of the policy documents and the functions of the line ministries are at times incongruent. Once created at the top, the overlaps cascade to the lower levels of the decentralized system, creating reporting challenges for officials at the decentralized local government system. The changes in the designations and of the ministries also result in mandate splitting – hygiene to Health; sanitation to Water and Sanitation; water to Agriculture and Irrigation and Water and Sanitation, and to other water providing bodies as well. In such a situation, institutional policy documentation and implementation, and institutional memory are easily lost.

The above outlined institutional infrastructure also shows that WASH functions are spread out in too many state and non-state institutions which makes coordination difficult at all levels of the sector. Much as the governance sub-structures such as the thematic and the technical working committees are supposed to alleviate the coordination challenges, these are just too temporary and too ad hoc to make any meaningful difference. Besides, such committees often lack the power and institutional clout that parent ministries enjoy, and are therefore relegated to offering technical advice, which may not always be acted on. In turn, the coordination challenges weaken the SWAp approach. It also makes it difficult to monitor implementation of policy, services provided by the different actors in the sector, and the amounts and levels of resources flowing in the sector.

Incomplete decentralization and limited human resource and financial capacities in the WASH sector at the local authorities' level are obvious and noticeable. Line Ministries hang on to a number of key functions, decisions, and resources, making decentralization rather ineffective. Subsequently, the capacity of local structures to take on responsibilities and to shoulder the burden of policy implementation becomes weak as the governing institutions lack qualified personnel and related policy implementation skills. At the level of external financing, donor-funded WASH related programmes in the country operate in near silos with very minimal

coordination at both the national and the local levels. Each programme runs as an autonomous entity with minimal interface with others, especially at local levels. Partnership between the private and the public sectors in the WASH sector is rather ill-defined. In a few cases, there are memoranda of understanding, but normally this is at the higher national levels and are unknown at the district and community levels. Wherever partnerships exist, accountability mechanisms are weak at all levels, and especially at the service delivery levels. From the interviews conducted for this study, it is observed that knowledge of WASH policy information at the district and community levels is very minimal, compounded by lack of databases for informed decision-making.

Though the non-state actors play an extremely beneficial role as they deal directly with the WASH service beneficiaries at the user points, as with the state actors, there is lack of coordination among them. This is evidenced by duplication of roles and lack of a synergistic approach that would ensure that each of the players dedicates resources to what it does best. The non-state actors do not share information, which makes it hard to sufficiently consider the baseline conditions before these actors' interventions, and to measure and replicate results. Most respondents felt that CSOs and donors alike tend to be preoccupied with meeting number targets, and generally prefer sinking boreholes and other tangibly quantifiable deliverables in the WASH sector.

## **2.2 Current Status of Water and Sanitation Situation**

The documents consulted for this assignment indicate that as of 2020, of the total national population, about 18 million at the time, only an estimated 26.55% was using at least basic sanitation services (WHO/UNICEF Joint Monitoring Programme (JMP), 2020). Its highest value over the past 20 years was 26.55 in 2020, while its lowest value was 21.17 in 2000. Basic sanitation services refers to improved sanitation facilities that are not shared with other households. This indicator encompasses both people using basic sanitation services as well as those using safely managed sanitation services. Improved sanitation facilities include flush/pour flush to piped sewer systems, septic tanks or pit latrines, ventilated improved pit latrines, composting toilets or pit latrines with slabs.

There were some variations between the urban and the rural areas. The percentage of the urban population using at least basic sanitation services was 34.34 as of 2020. Its highest value over the past 20 years was 34.34 in 2020, while its lowest value was 31.83 in 2000. In the rural areas, it was 24.91. Its highest value over the past 20 years was 24.91 in 2020, while its lowest value was 19.35 in 2000. These figures suggest some improvements over two decades but at a rather slow rate. They also suggest that more than 60% of the country's population did not use basic sanitation services.

As of 2018, about 11% of the Malawian population practiced open defecation. The Percentage of households with improved sanitation access was estimated at 13.8 while the international Open Defecation Free (ODF) coverage standard was at 41.7%. Evidence of actual hand washing (HWWS) practice is scanty but studies in rural areas suggest that the actual practice of HWWS at key times is between 6 – 18% but more likely on the lower end of this scale, as responses tend to exaggerate actual and regular practice (Government of Malawi (GOM): 2018).

About 80% of the national population has access to an improved source of drinking water, of varying quality, while 20% still lack access to safe water. A combination of poor sanitation practices and improper storage of drinking water commonly lead to waterborne illnesses such as cholera, which has become a frequent health menace in both urban and rural areas in the country. According to the 2010 Demographic Health Survey (National Statistical Office (NSSO: 2010), 78% of children under two years old experienced at least one incident of diarrhoea. Poor sanitation and unhygienic practice result in approximately 3,000 under-five child deaths per year in Malawi.

For children without access to clean water, toilets or soap at home, school can be their only hope of sanitation (Lily Jones, 2020)<sup>3</sup>. Unfortunately, hygiene in schools often falls short in Malawi. As of 2018, only 4.2% of Malawian schools had handwashing facilities with soap and 9% did not have a secured water source. Schools are a key tool for educating youth on basic hygiene and sanitation, especially due to the fact that children are effective agents of behaviour change. They are capable of sharing lessons they learn at school with their local community. However, lack of sanitation infrastructure in schools is worsened by lack of education surrounding sanitation. Even if they did offer education surrounding hygiene and sanitation, high rates of enrolment would be required to create a large scale change in behaviour. In many rural communities, girls are tasked with traveling long distances to collect water. This responsibility combined with the obstacle of menstruation reduces female enrolment in school.<sup>4</sup> In Malawi, there are imbedded cultural beliefs surrounding menstruation that lead to communal ignorance. The stigma surrounding menstruation extends to schools, where girls similarly do not receive education about menstruation. Furthermore, most school bathrooms provide little to no privacy. The lack of privacy, combined with the societal shame of menstruation, results in some girls leaving school once they get their period.

Data on other sanitation related factors such as those linked to personal hygiene, especially for women, tonnage of solid and liquid wastes and their management, the state of sewerage systems, levels of water pollution, are rather scanty. Evidence suggests that waste disposal is becoming “a crisis”<sup>5</sup>. For example, figures from the monitoring and evaluation office of the Community Servings Investment Promotion of the City of Lilongwe, the country’s capital, show that the city generates 109 tonnes of solid waste per day; of the total, 15 percent derives from industries, 25 percent from commercial areas, 20 percent from hospitals and 40 percent from residential areas. The figures suggest that “the city has been hit by a sanitation problem in solid and liquid waste management”<sup>6</sup>. The same, or even worse, could be the case with Blantyre, Malawi’s largest city.

### **2.2.1 Sanitation in Lilongwe City – Case Example**

Being the Capital City, Lilongwe offers a good case for understanding the WASH situation in Malawi. Official records (GoM, 2021) indicate that, by 2021, one million residents of the City faced major challenges with water and sanitation. An assessment of the situation at the time

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<sup>3</sup> <https://borgenproject.org/10-facts-about-sanitation-in-malawi/>

<sup>4</sup> <https://borgenproject.org/10-facts-about-sanitation-in-malawi/>

<sup>5</sup> <https://www.businessmalawi.com/wastemanagement-in-malawi/>

<sup>6</sup> <https://www.businessmalawi.com/wastemanagement-in-malawi/>



revealed that the City's sewerage system served only 5% of its population, while the rest relied on onsite sanitation systems (69% pit latrines and 25% septic tanks). Low-income areas were dominated by traditional, unimproved pit latrines. Collection and safe disposal of fecal sludge from these low-income areas was almost non-existent, while open defecation was yet to be eliminated. Inadequate hygiene was a concern across the board as only 1 in 5 of the city's households had access to hand washing facilities with soap and water. The City's public schools were characterized by a high pupil to toilet stance ratio and poor menstrual hygiene management. Besides low customer connectivity (5%), Lilongwe's sewerage operations are constrained by inadequate treatment capacity, poor network maintenance and management.

The current fecal sludge treatment capacity is just over 10% of the city's needs. With the population projected to double to about 2 million by 2035, there is need to increase the treatment capacities of both fecal sludge and wastewater to cater for the growing demand. Whereas the bulk of Lilongwe City Council's resources are committed to solid waste management, the collection efficiency is in the 10-30% region, which is significantly low. Gaps in wastewater and fecal sludge management, and disposal of solid waste are intrinsically linked to urban drainage. The situation will get worse as the City's population grows, and as access to piped water networks improves. As sanitation has been identified as a key environmental development issue for Lilongwe City, it was deemed necessary to develop a strategy to drive improvements in sanitation and drainage.

The use of improved water and sanitation facilities is greater in the wealthiest quintiles, confirming the necessity to target the most vulnerable populations (WHO/UNICEF, 2017). Small variations in the percentage of the population without access to an improved water source were observed but greater inequalities with regard to practicing open defecation were highlighted between each wealth quintile. This indicates that poverty affects access, and in turn fuels inequities because the poor lack the power and organizational resources necessary for making their demands heard and considered in policy processes and key decisions on sanitation.

At the national level, in 2015, the percentage of the population lacking access to improved drinking water sources within 30 minutes in rural areas was almost heterogeneous across quintiles. In the Northern and Southern regions, a greater percentage of the population within the richer and middle quintiles were lacking access to drinking water. A higher income would generally allow individuals to live where better infrastructure exists. Even where infrastructure for water does not exist, those with greater wealth may still occupy locations with better access to infrastructures such as water supply and sanitation. The important difference between urban and rural populations, however, appears to further highlight inequalities than wealth in the country. These results confirm previous findings which have shown that rural and urban areas face the strongest inequities (Seyoum and Graham 2016).

Previous studies on access to water and sanitation by Pullan, et.al. (2014) demonstrated that although improvements have been made, significant parts of the population still have limited access and are forced to practice open defecation. Looking at trends by socio-economic category and wealth possession draws attention to the breadth of the inequalities, and the necessity for reconsidering disadvantaged rural areas (Lungu et al. 2019). Women play a central role in water and sanitation as they continue to perform most of the water fetching. The time and energy

associated with fetching water further exacerbate gender inequalities and reduces women's potential for empowerment by limiting opportunities (e.g. education, paid work, healthcare, and childcare) and increasing the risk of injuries and exposure to abuse and violence (Curtis 1986, Geere 2015). Women and girls practicing open defecation are also exposed to sexual exploitation and psychosocial stressors, which further compromise their dignity, health and wellbeing (Saleem et al. 2019). Improving access to water, sanitation and hygiene is a key driver to improving women and girls' lives. Gender equity in terms of access to water and sanitation should be further investigated to address girls and women's needs for empowerment. Acknowledging the different contexts between groups of the population (e.g., urban/rural) and targeting interventions to appropriate situations is essential to leave no one behind (Adams and Smiley 2018).

Disparities in access to improved water sources can be noticed across the regions, with health facilities in the northern region having the lowest coverage of 89% while the southern region has the highest coverage of 96%. The central region falls in the middle with a coverage of 94%. The growing national demand for water resources, particularly during the dry season, increasingly calls for better management of the water resources to ensure that it is available and does not limit the social and economic development of the country.

In rural areas, 37% of households spend 30 minutes or more to obtain their drinking water in comparison to 13% in urban areas. Further analyses within districts also reveal that the distribution of water services in some areas is poor and uneven.

Functionality is also a challenge, with only  $\frac{2}{3}$  of the water points nationwide functional (Government of Malawi. Ministry of Agriculture, Irrigation and Water Development. 2015-2016).

Although much progress has been made in decreasing open defecation (OD), 6% of the population continue with this practice (WHO/UNICEF Joint Monitoring programme, JMP 2017). Sanitation has also been an issue of equity in Malawi. Seven percent (7%) of households practicing OD are in rural areas compared to 1% in urban (National Statistical Office (NSO) [Malawi] and ICF. 2017). Behaviour change has been one of the major challenges not only affecting the ownership and use of sanitation facilities, but also handwashing. Only 10% of households in Malawi have handwashing facilities with soap (a proxy indicator for handwashing practice) (WHO/UNICEF Joint Monitoring Programme, JMP 2017).

The country has in the recent years been vulnerable to floods and droughts, in some of the catchment areas, ranging from mild to severe impacts mainly due to lack of storage dams and reservoirs and regulation facilities on Shire River. If water resources can be properly managed, vulnerabilities and hazards could be addressed. This can result in intensified agricultural production, better services and secured homesteads thereby transforming these places to become economic nuclei of Malawi. Accurate information on the condition and trends of the country's water resources (surface and groundwater) in terms of quantity and quality is required as a basis for planning Malawi's socio-economic development, and for maintenance of environmental quality through a proper understanding of the hydrological cycle in time and space by 2030 (GoM, 2021).

### 2.2.2 Investment in WASH

Information on the state of current investments in sanitation is rather scanty. The data are fragmented and appear in too many documents belonging to various line ministries, departments, local authorities, and non-state actors. Interviews revealed mostly investments that have ended, with a few ongoing ones. In the 2022/2023 national budget, the government allocated MK151.5 billion (approximately US\$185.4 million) to the Ministry of Water and Sanitation. Of this, MK2.1 billion (approximately US\$2.57 million) was for Recurrent Expenditures and MK 149.5 billion (approximately US\$ 183.0 million) for development.

The water supply sub-sector is heavily dependent on external support and most of the developmental projects are in the form of loans. At the time of this study there were not less than five big donor funded WASH projects in the country:

- a) The African Development Bank (AfDB) and the OPEC Fund International Development (OFID) jointly funded a US\$ 30.4 million Nkhata Bay Town Water supply and Sanitation project under the Northern Region Water Board (NRWB) from 2018 to 2022. The AfDB contributed a grant of US\$15 million, while the OFID contributed a loan of US\$12 million. On its part the Government of Malawi contributed US\$3.4 million. The project involves the development of water infrastructure, improvement of sanitation and hygiene, institutional capacity building and project management. Its overall objective is to increase access to clean water and improve sanitation in Nkhata-Bay Town and surrounding areas.
- b) The World Bank through the International Development Agency (IDA) funded another 2-year Lilongwe Water and Sanitation project at a cost of US\$100 million, with 75% of the amount as a loan and 25% as a grant. The project is running from 2018 to 2022. It aims to increase access to improved water services and safely managed sanitation services in Lilongwe City.
- c) The European Investment Bank funded the Lilongwe Water Supply Resources Efficiency Programme with the Lilongwe Water Board, at an estimated cost of 24 million of Euros (approximately US\$27 million). The project has two main components: (a) rehabilitation and raising of the Kamuzu I Dam by 7 metres and; (b) extension and improvement of water supply and sanitation services to unserved areas as well as improvement in management of information system. The project aims at increasing water storage capacity and strengthening climate resilience. The second component of the project is on water distribution, network rehabilitation, expansion and non-revenue water reduction in Lilongwe city running from March 2018 to 2023.
- d) Exim Bank of India is supporting Blantyre Water Board through a loan of US\$112 million. The project has two components: to install solar power generation plant, which will be producing 29 megawatts power; and to support the construction of a new pumping intake on the Shire River.

- e) Other active partners in the sector are UNICEF, European Union, Water for People, Water Aid, United Purpose, World Vision, WESNET, USAID, FAO and Engineers without Borders. These fund various sizes of water projects in the country.

A 2018 UNICEF document<sup>7</sup> shows that the total budget for the WASH sector in Malawi has been fluctuating since 2012, but significantly declined in real terms in 2017/18 compared to the previous year. In 2017/18, the WASH sector received a total of MK45 billion down from MK56 billion in 2016/17. This constitutes a 20% decrease in nominal terms and 31.7% in real terms. As a proportion of the total budget and of gross domestic product (GDP), the WASH sector received 3.4% and 0.9% respectively, down from 5% and 1.46% in 2016/17. WASH consumes 32% of the budget for the Ministry of Agriculture, Irrigation, and Water Development (MoAIWD) in 2017/18.

The share of the total government budget going to WASH in Malawi is slightly above Malawi's neighbours – Mozambique and Tanzania. In 2016, Mozambique and Tanzania allocated 2.8% and 2.4% of their state budgets respectively to the WASH sector whilst Malawi allocated 5%, including resources mobilized from donors.

Water Resources Development, Management and Supply (WRDMS) (Vote 04) is the second largest under the MoAIWD after Agricultural Productivity and Risk Management, which took up 55% of ministerial vote. In 2017/18, Vote 04 received 16% of the program based budget for the ministry down from 20% in 2016/17. Water development and supply take up nearly all the WASH sector resources, with virtually no specific budget line item for sanitation and hygiene. Although several ministries, departments and agencies (MDAs) have included targets on sanitation and hygiene in their program-based budgets, there are no dedicated budget lines for this.

In the 2017/18 program based budget, sanitation is lumped up with water supply, making it difficult to know how much exactly the government is spending on sanitation. Hygiene is not mentioned at all in the PBB, even in the Ministry of Health. The burden for financing sanitation and hygiene interventions is now left with households, NGOs and donors. This demonstrates that the GoM has not fulfilled its commitment to the eThekweni Declaration (2008); by either creating a specific budget line for sanitation or allocating at least 0.5% of the national budget to sanitation.

Development costs take up 96% of the WASH budget. In 2017/18, the development budget accounts for 96% of all planned spending at the central government level and 92% at the sub-national level. The remaining 4% of the total WASH budget is allocated to personnel emoluments (3%) and other recurrent costs (1%). The 1% allocated to other recurrent costs is clearly insufficient to cover basic operations and maintenance.

The majority of the WASH sector resources are centrally allocated with only 2.94% going to Regional Water Boards and District Councils. This is however expected considering that huge infrastructural water development projects such as construction and rehabilitation of dams are under the responsibility of the central government. In 2017/18, MK187.5 million was allocated to

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<sup>7</sup> This information and the paragraphs that follow are copied from UNICEF, 2017/18 WASH Budget Brief: Investing in Water and Sanitation for all Malawians Towards Attainment of SDG 6

District Councils for WASH ORT, up from MK150 million. This amounts to 25% increase in nominal terms and 5.7% in real terms.

## 2.3 Existing legal, policy and institutional frameworks

Malawi developed its first comprehensive National Sanitation Policy (NSP) in 2006 – and launched it in 2008. Its purpose is to act as a “vehicle to transform the hygiene and sanitation situation in Malawi” and to provide both guidelines and an action plan” so that all the people of Malawi will have access to improved sanitation, safe hygienic behaviour will be the norm, and recycling of solid and liquid waste will be widely practiced leading to a better life for all the people of the country. The policy document provided guidelines and an action plan in the form of a National Hygiene and Sanitation Programme (NHSP), as a basis for a Sector Wide Approach (SWAP) for sanitation.

### 2.3.1 Broad policy directions

The NSP has three objectives: (i) achieving universal access to improved sanitation, (ii) improved health and hygiene behaviour, and (iii) a common acceptance and use of recycling of human waste to protect the environment and create wealth. Its vision is to create “a transformed country where all the people have access to improved sanitation, where safe hygienic behaviour is the norm, and where the recycling of solid and liquid waste is widely practiced, leading to a better life for all the people of Malawi, through healthier living conditions, a better environment and a new way for sustainable wealth creation.” This is to be done through a nation-wide effort of health education - to improve hygiene knowledge and practices; construction of improved sanitation facilities at household and institutional levels; and promotion of safe recycling of solid and liquid waste.

The machinery for delivery of the NSP and its NHSP is the national decentralization programme which mandates local authorities (city councils, municipal and town councils, and district councils) to implement sanitation activities on their own or in partnership with private sector and non-state sector actors.

### 2.3.2 National Sanitation and Hygiene Strategy

In 2018 the Malawi Government developed the National Sanitation and Hygiene Strategy (NSHS) to enable the implementation of the NSP and NHSP. The strategy runs from 2018 to 2024. Its vision is the realization of a healthy environment, for human dignity, privacy, rights, and improved quality of life for all always and everywhere in Malawi by 2030. The mission is to facilitate, with minimal negative impact on the environment, provision of acceptable, affordable, accessible and sustainable sanitation and hygiene services for both rural and urban households, institutions and public places. NSHS aims to support Malawi to attain the Sustainable Development Goals (SDGs) and specifically contribute to national overarching policies and strategies. The NSHS has seven thematic areas for programming and activity implementation:

- i. **Rural sanitation and hygiene:** To increase sustained access and use of improved and appropriate sanitation and hygiene facilities for all in domestic rural settings through an integrated approach. *Target: 29 districts, 263 traditional authorities and all 38,682 villages in the country.*
- ii. **Urban sanitation and hygiene:** To increase sustained access and use of improved and appropriate sanitation and hygiene facilities for all in domestic urban settings through an

integrated approach. *Target: All cities (Mzuzu, Lilongwe, Zomba and Blantyre), municipalities (Kasungu, Mangochi and Lunchenza), and 145 trading centres by 2024.*

- iii. **Institutional sanitation and hygiene:** To increase access and use of improved and appropriate sanitation and hygiene facilities for all in institutional settings through an integrated approach. *Target: 30 institutions per district use improved sanitation (870) by 2024.*
- iv. **Behaviour change and communication (BCC):** To ensure that programmes incorporate promotive approaches that are cognizant of context, technology, behavioural science and economics for improved sanitation and hygiene. *Target: All 29 district councils incorporate BCC approaches in WASH promotion by 2024.*
- v. **Waste management:** To promote sustainable waste management practices and ensure a clean and healthy environment. *Target: All health care facilities, markets, schools, institutions, commercial and communities have desired waste management facilities by 2024.*
- vi. **Menstrual hygiene management:** To increase sustained access to quality and appropriate menstrual hygiene services. *Target: All WASH programmes include Menstrual Hygiene Management activities in all the 29 district councils by 2024.*
- vii. **Crosscutting issues:** To ensure effective financing, leadership, coordination and knowledge exchange to achieve targets in sanitation and hygiene for all. *Target: Establish a sanitation and hygiene department by 2024.*

### 2.3.3 Linkages with related sectoral policies

Detailed review of the contents of the NSHS shows that the strategy aims to support Malawi to attain the SDGs and specifically contribute to related national overarching policies and strategies. Key among these are:

**Malawi Growth and Development Strategy III (2017 – 2022)** Objective 6 *to improve health and quality of the population for sustainable socio-economic development and specifically improved hygienic and sanitation practices through:*

- *Providing and promoting use of improved and accessible sanitation facilities in all public places*
- *Promote adoption of safe water and sanitation practices at individual and household levels*
- *Improving management and disposal of both liquid and solid waste.*

**National Health Sector Strategic Plan (2017 – 2022)** Objective 2, *to reduce environmental and social risk factors that have an impact on health with particular reference to safe water and environmental health and sanitation.*

**National Sanitation Policy (2008)** *vision where all people have access to improved sanitation, where safe hygienic behavior is the norm, and where recycling of solid and liquid waste is widely practiced, leading to a better life of all the people in Malawi.*

**National Water Policy (2005):** *(i) To ensure water of acceptable quality for all the needs in Malawi; (ii) To achieve sustainable, commercially viable provision of water supply and sanitation services that are equitably accessible to and used by individuals and entrepreneurs in urban, peri-urban and market centers for socio-economic development at affordable cost; (iii) To achieve sustainable provision of community owned and managed water supply and sanitation services that are equitably accessible to and used by individuals and entrepreneurs in rural communities for socio-economic development at affordable cost.*

**National Health Policy (2018)** to improve the health status of all people of Malawi by reducing the risk of ill health and the occurrence of premature deaths.

**National Health Promotion Policy (2013)** to reduce preventable deaths and disability through effective health promotion interventions.

**National Environmental Policy**, outlines the need for pollution control and the proper disposal of waste water, solid waste and the protection of water bodies, with the general principle of 'polluter pays'.

**National Education Policy (2013)** to create an enabling environment for the expansion of equitable access to education for all Malawians. Among others the National education policy advocates for school health and water and sanitation, and hygiene.

**National Nutrition Policy (2006)** to contribute to effective human capital development for economic growth and prosperity through improved nutrition

**Malawi National Multi-sector Nutrition Policy (2028)** – a well-nourished Malawian population that effectively contributes to the economic growth and prosperity of the country.

**National Decentralization Policy (1998)** provides the institutional framework for implementation of the NSP and NSHS.

**National Housing Policy**, promotes adequate shelter for all which ensures that there is adequate sanitation.

**National Physical Development Plan Policy**, refers to urban planning and controls on unregulated development.

**National Social Disability Policy** emphasizes the need for access to sanitary facilities for those with disabilities.

#### **2.3.4 Legal framework**

The documents reviewed show that there are a number of laws in the country that have a bearing on sanitation or directly relate to the subject. Read in combination with the NSP and the NSHS, these laws constitute the legal framework for the provision and management of sanitation services in the country.

The starting point is the Constitution of Malawi, particularly Section 13 on principles of national policy which covers issues related to water, health, gender, nutrition, trust and governance. The Constitution also enshrines responsible management of the environment to provide a healthy living and working environment for all the people of Malawi.

Both the WASH and the Health Sector are currently covered by the Public Health Act (PHA) and the Pharmacy, Medicines and Poisons Act as well as a number of guidelines covering the safe disposal of hazardous and non-hazardous waste. The PHA is regarded as the principle legislation in the regulation of the WASH sector. Part IX of the Act covers matters of sanitation and housing

and provides standards for sanitation management. Sections 60 and 61 of the Act provides that it is the duty of local authorities to maintain cleanliness and prevent “nuisances”:

**60.** *It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures for maintaining its area at all times in clean and sanitary condition, and for preventing the occurrence therein of, or for remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health and to take proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition.*

**61.** *It shall be the duty of every local authority to take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection or occupation of unhealthy dwellings or premises, or the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent, or from overcrowding, or from the construction, condition or manner of use of any factory or trade premises, and to take proceedings under the law or rules in force in its area against any person causing or responsible for the continuance of any such conditions*

The definition of “nuisances” in this law includes:

**(4)** *any well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by human beings for drinking or domestic purposes or in connexion with any dairy, or in connexion with the manufacture or preparation of any article of food intended for human consumption, which is in a condition liable to render any such water injurious or dangerous to health;*

**(5)** *any noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any gully, swamp, or water course or irrigation channel not approved for the reception of such discharge;*

**(6)** *any collection of water, sewage, rubbish, refuse, ordure, or other fluid or solid substances which are offensive or which are dangerous or injurious to health or which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or domestic animals, or of insects or of other agents which are known to carry such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites.*

With such wide provisions on sanitation matters, the Public Health Act, albeit a colonial piece of legislation enacted in 1948, with several post-colonial amendments, is the principle law governing the sanitation sector in the country. The Act creates the legal framework for the protection of public health in Malawi and for this purpose provides for powers of the administration to regulate and control and animal and food production and handling, food and water supply, sewerage, and others.

Closely related to the Public Health Act is the Occupational Safety, Health and Welfare Act of 1997. It regulates conditions of employment in workplaces with regard to safety, health and welfare of employees. It is the duty of every employer to ensure the safety, health and welfare at



work of all his employees. The Act requires the employer to provide sufficient and suitable sanitary conveniences for persons employed in the workplace, which must be maintained and kept clean, and effective provision should also be made for lighting the conveniences and, where persons of both sexes are, or are intended to be employed, such conveniences are required to afford proper separate accommodation with a distinct approach for persons of each sex.<sup>8</sup> Where in any workplace workers are employed in any process involving excessive exposure to heat, cold, noise, wet or to any injurious or offensive substance, or any welding process, suitable protective clothing and appliances (suitable gloves, footwear, screens, goggles, ear muffs and head covering) should be provided and maintained at no cost to the employee for the use of such workers.

The Environment Management Act No.9 of 2017 replaced the repealed Environment Management Act No.23 of 1996. The Act sets standards for the discharge of effluents into water systems, plus any other standards for environmental management in the country – inclusive of solid and liquid waste disposal. The Act has a number of sections that relate to sanitation issues.

The law providing the institutional governance infrastructure for the delivery of sanitation services is the Local Government Act. It promotes accountability and good governance at the local level in order to help the government reduce poverty and mobilising local communities for socio-economic development. Further to the above subsidiarity, or decentralisation of decision-making to the lowest practical level, is one of the key principles of the National Sanitation Policy.

Three other laws that have sections related to sanitation are the Malawi Housing Corporation Act (Chap 32:o2), the Physical Planning Act, 2016, and the Town and Country Planning Act. All these deal with matters of development of land and set standards for orderly and progressive development of land in both urban and rural areas; to preserve and improve amenities thereof; for the grant of permission to develop land and for other powers of control over the use of land. The laws define and regulate the built environment and the amenities therein, inclusive of sanitary facilities.

One of the major implications of the planning laws is that they distinguish planning areas from non-planning areas, which are commonly referred to as “informal settlements”. Contentiously, “informal settlements” are not entitled to sanitation services – though this legal position is currently under debate. There is gradual acceptance of such locations as part of the urban environment and the push to recognize them for the purposes of their accessing sanitation and other services.

In addition to the above pieces of legislation, City, Municipal, Town and District Councils have by-laws on sanitation that are regarded as an important part of the sector’s legal framework.

### **2.3.5 Alignment with ASPG and SDG**

The WASH sector in Malawi is guided by the Government of Malawi’s (GoM) Development and Growth Strategy III (MDGS-III), the NSHS, the Health Sector Strategic Plan II<sup>9</sup> (HSSP II) in addition

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<sup>8</sup> <https://mywage.org/malawi/labour-law/health-and-safety#>

<sup>9</sup> A new Health Sector Strategic Plan III has just been developed

to other sector strategies. The NSHS (2018-2023) is aligned with the Sustainable Development Goals (SDG). It aims at attaining universal, sustainable, and equitable access to sanitation and hygiene, and the elimination of open defecation as reflected in the Sustainable Development Goals (SDG 6: Ensuring availability and sustainable management of Water, Sanitation for all). These goals are also cross-cutting and impact on several other SDGs, including: sanitation and hygiene in education (SDG 4) and health care facilities (SDG 3); Menstrual Hygiene Management (MHM) and other interventions focusing on women and girls (SDGs 5 and 16); targeted sanitation and hygiene interventions in support of programmes to reduce malnutrition (SDG 2); and to end poverty (SDG 1). Improved sanitation and hygiene practices will contribute to the achievement of other SDG goals and targets including: sustainable cities (SDG 11); reduced inequalities between and within countries (SDG 10); environmental protection and climate change (SDG 13); and decent working conditions (SDG 8).

The NSHS expires in 2023, and is yet to be evaluated. It is therefore difficult to judge the extent to which its alignment with the SDGs will be achieved. However, drawing from previous performances, some of the targets may be achieved. For example, Malawi has made some impressive progress on increasing water supply coverage over the last five decades, surpassing the Millennium Development Goal target on water supply for 2015. Estimates from the WHO/UNICEF Joint Monitoring Programme (JMP) for 2017 indicate that coverage for basic water supplies has been extensive. UNICEF Malawi has made considerable contributions to provision of water supply facilities such as boreholes and solar powered reticulation systems. A total of 42% of Malawi's population had an improved sanitation facility (UNICEF, 2017). UNICEF Malawi has contributed to these results through CLTS and sanitation marketing activities, where sanitation entrepreneurs were enabled to develop various sanitation options, including the corbelled latrines. By 2018, a total of 4 districts: Balaka, Nkhota kota, Dowa and Ntchisi had attained ODF. An additional 27 Traditional Authorities (TAs) attained ODF status in 2018, bringing the total number of TAs with ODF status to 112. As a result, over two million people (about 1,077,404 women and 1,012,863 men), of which over 1,180,000 are estimated to be children, lived in safer and cleaner environments free of fecal matter. This significantly contributed to reducing the risk of diarrhoea and other WASH-related diseases.

Despite the progress made, there are serious present and future threats to the sustainability of water supply services in the country. Low functionality of water is prevalent, with an estimated 30% of water points not working at a given time (Ministry of Agriculture, Irrigation and Water Development, 2017). Sector reports also show variations in coverage between districts, and there is a notable difference between urban and rural areas. Hence, access to clean water is by no means equitable. These uneven patterns of service provision and problems of functionality are caused by various bottlenecks in the service delivery chain, as well as broader politico-economic structures and actor relationships that shape WASH governance in Malawi.

According to the 2019 WASH sector Joint Review Meeting Report (2019) the water supply sub-sector faces daunting challenges in meeting its objectives. Key among these are:

- poor revenue collection efficiency for the water boards due to huge government unpaid bills;

- increase in non-functionality rate of rural Water Supply Systems; - compounded by infrastructural damages caused by a series of recent cyclones;<sup>10</sup>
- inadequate allocation of finances to the Water Department by the Government of Malawi;
- limited capacity in the water supply sub-sector at the ministry and in the districts with a vacancy rate of 62.2%;
- deforestation and environmental degradation of catchment areas for water supply which render the quantity of water insufficient and quality of water bad;
- high levels of non-revenue water for water utility companies which are estimated to be around 35%;
- vandalism of water supply facilities and water monitoring equipment; and,
- inadequate coverage due to increasing water demand as a result of population growth especially in urban and peri-urban areas.

### **2.3.6 Functional effectiveness of legal, policies, and institutional arrangements**

It is difficult to precisely assess the functional effectiveness of the existing legal, policy and institutional arrangements in the Malawi WASH sector because of inadequacy of evaluative data. We can only use proxy data. The coordination weaknesses and failures discussed in the preceding paragraphs are suggestive of a system that is not functioning optimally. Operational challenges in the established collaborative and governance structures such as the SWGs, TWGs, and the JSR could be evidence for systemic failures. Incomplete decentralization, duplication of roles among ministries and departments, funding streams that operate in silos, lack of synergistic approaches, and inadequacies in information sharing, could be additional evidence that legal and policy frameworks are not implemented or followed effectively.

### **2.3.7 Constraints to improved alignment and coordination**

One factor constraining greater alignment, coordination, and collaboration in the WASH sector is the incomplete alignment of the various relevant pieces of legislation constituting the regulatory framework. The PHA, which is the principle piece of legislation, is an old colonial law whose intention was typically for the control of the “native” population, and the maintenance of “law and order” as far as matters of public health were concerned. The “native” populations were regarded as the source of public health “nuisances” that needed to be controlled. The intention of the law was therefore not to provide a conducive environment for the democratic and equitable provision of WASH services. The main purpose of the law was to define and provide for “powers of the administration to regulate and control” the matters related to public health, WASH inclusive. It was not a law intended for managing broad issues of WASH governance and services provision, inclusive of institutional collaboration, coordination, funding, and others.

The more recent pieces of legislation have concepts and principles that are different from the colonial ones. The result is that the WASH concepts used in the new pieces of legislation – such as those related to principles of equity, access, vulnerability, right-based, and others – are not

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<sup>10</sup> A situation analysis report by the Department of Disaster Management Affairs released in February and March 2022, indicates that 405 boreholes, 206 water taps, 14 gravity-fed water schemes, and 6,631 latrines were damaged by the tropical cyclones Ana and Gombe that come in succession at the beginning of 2022.

contained in the principle legislation. Similarly the guidelines provided in the principle legislation may not be consistent with the modern democratic culture. In addition, all the key pieces of legislation constituting a regulatory framework contain some form of guidelines specific to themselves, and in most cases these are not aligned across the laws. For example, the guidelines for liquid and solid waste disposal contained in the Environment Management Act (No.9 of 2017) are not part of the Physical Planning Act, 2016, or/and the Malawi Housing Corporation Act (Chap 32:02). As a result, there is no mandatory provisions for development plans, required by the Physical Planning Act, to include detailed WASH designs – inclusive of liquid and solid waste disposal systems.

On their part, the leadership and governance structures responsible for coordination and collaboration such as the TWGs, SWGs and JSR are not properly defined and coordinated from central government/national level, through the regions and districts to local authority levels. As a result, the various stakeholders in the sector are not properly coordinated from central level to the local authority levels. The mandates and functions of the TWGs, SWGs, and the JSR are limited to the top level, leaving out the local authority levels. Their terms of reference (TOR) are also not aligned with various WASH sector strategic plans.

At the point of WASH services provision, coordination and collaboration is further constrained by limited effectiveness or functionality of oversight and accountability structures. With some exceptions of where the WUAs and water committees operate functionally, the WASH sector is characterized by either absence or limited existence of oversight and accountability mechanisms. This is partly caused by incomplete legislative/regulatory frameworks in the sense that such structures are not fully provided for. Where the regulatory framework provides for such structures, their mandates and powers are limited, and their policy implementation recommendations are not binding, which in turn undermines effective participation of beneficiaries in the WASH sector. Local/community voices do not effectively filter into policy planning and implementation. Inadequate capacity of the oversight and accountability structures compounds the challenge.

Participation of the private sector in WASH matters is equally limited. This is partly a result of inadequate policy, legal and policy guidelines on Public Private Partnerships (PPPs) in the sector. Documents reviewed, and information from the interviews conducted for this study suggest that PPPs are not a priority area in the WASH sector. Capacity for effective PPP negotiation is limited. The same is the case with the capacity of contracting at the central and the local authorities levels. Much as non-state sectors admittedly play a considerable role in the sector, capacities of the contracted non-state actors are also limited.

### **2.3.8 Opportunities for improved coordination, regulation, and management**

Of late, there have been a number of developments that create opportunities for improved coordination, regulation, management, and investment in the WASH sector in the country. One of these is the recent launch of the Malawi's Vision 2063 (MW2063) as a blueprint for long-term national development. The Vision has three pillars, all of which have implications for WASH. The first pillar is agricultural productivity and commercialization – which entails proper management

of water resources, disposal of waste, and environmental management. The second is industrialization, which has implications for waste and environmental management. Third is urbanization with all its implications for WASH. The Vision document states that *in envisioning a healthy population of Malawians, ensuring the provision of clean water, sanitation and hygiene services will be critical at the household and community level. Government shall take the lead and rally partners and communities in promoting the adoption of safe water and sanitation practices at the individual and household level....* (MW2063:39). Policy formulation and reform, effective governance, collaboration and cooperation, and planning and investments are mentioned through the Vision document. With the creation of the National Planning Commission (NPC), as the guardian and implementation coordinator of the MW2063, opportunity has been created for potential resolution of some of the constraints mentioned above.

Another development that has created opportunities is the establishment of the full line Ministry of Water and Sanitation. All along WASH functions have been spread across several ministries and departments. With the creation of a full line ministry responsible for water and sanitation there is an opportunity to consolidate and coordinate all WASH functions under one ministry. However, it will require a considerable amount of capacity building for the ministry to function optimally. One area that will require urgent attention is creation of WASH management information system given that there is no one central database for the sector.

The enabling factor for these opportunities are the ongoing public sector reforms (PSR). Malawi is currently pursuing a number of public sector reforms. One of the pioneering ministries in this is the Ministry of Health. Given that the ministry performs a number of WASH related functions, the opportunity to make investments and changes in the management of the sector, including transferring some of those functions to the newly created Ministry of Water and Sanitation, is now.

The existence of the sector-wide investment plan, supported by the World Bank and other development partners, is an added opportunity as it creates a framework for coordinating financing and harmonizing funding streams from different sources. If properly followed, the plan will resolve some of those silos in donor-funded WASH programmes.

## 3.0 Conclusions and recommendations

The foregoing account shows that the state is the major player in the WASH sector in the country. However, the large programmes and investments in the sector are donor driven and donor dependent. Legal and policy instruments are fairly robust, but coordination and collaboration among the key players is rather weak largely as a result of the instruments not being fully harmonized, which in turn leads to fragmentation. There have been recent attempts to implement a coordinated and participatory sector-wide approach in the sector, but the leadership and governance institutions for the SWAP are top-heavy and do not cascade to the lower levels, especially to the local government authorities.

Based on the findings of this review, the following are key take home messages:

- 8) For a very long time WASH policy issues have been spread out in several line ministries without central coordination
- 9) Effective coordination of the WASH sector is constrained by the existence of a number of fragmented legal and policy instruments that provide disharmonized guidelines.
- 10) Key investments in the sector are donor-dependent and operate in silos without synergetic linkages with planning and among themselves, despite attempts at a sector-wide approach.
- 11) Much as there have been some major achievements in the WASH sector, particularly related to service delivery, meeting international standards is still a challenge due to bottlenecks in the service delivery systems, uncoordinated planning resulting in wastage, and effects of some natural disasters such as those associated with climate change and poor environmental management.
- 12) Private sector involvement in WASH is rather limited, though potentially crucial. Capacities for implementing public-private sector partnerships are rather inadequate.
- 13) Accountability mechanisms for WASH service delivery systems are weak though there is growing interest in the participation and involvement of non-state actors and the citizenry in these matters.
- 14) Recent public sector reforms, including the launch of the Malawi's Vision 2063, and the establishment of the National Planning Commission, have created new opportunities for coordination, proper planning, and effective management of the WASH sector – especially within the context of policy decentralization.
- 15) The creation of a new line ministry responsible for water and sanitation an added opportunity for embarking on comprehensive policy reforms in the WASH sector.

### 3.1 Recommendations

The suggested recommendations below have been arrived at in two ways: first, by carefully assessing the causes of the legal and policy bottlenecks and attaching to them solutions that are implementable, and with results that can be monitored; and, second, by considering the solutions that have been suggested in a number of previous studies of a similar nature. Among the documents reviewed for the current exercise have been reports of studies, reviews, and policy

briefs containing numerous implementable proposals to resolve the legal and policy bottlenecks identified in the WASH sector.

### 3.1.1 Leadership and governance

The first set of the recommendations related to leadership and governance at the central level of the WASH sector

Issue I	<i>Ill-defined leadership and governance for coordination at the central level</i>
<b>Bottleneck</b>	Until recently leadership and governance structures for coordination of the WASH sector were not properly defined and coordinated from Central Government to Local Authorities
<b>Causes</b>	<p>WASH functions spread out in several line ministries and other state bodies</p> <p>Non-alignment with decentralization frameworks</p> <p>Structures not properly cascaded from top to bottom</p> <p>TORs of the WASH SWAp governance structures not aligned with WASH sector related strategic plans</p>
<b>Consequences</b>	<p>Legal and policy instruments not functioning properly</p> <p>Leadership and governance structures not functioning optimally</p> <p>Accountability not effective</p> <p>Planning and implementation indicators not clear, and not traceable</p> <p>feedback mechanisms non-existent</p>
<b>Recommendations</b>	<ul style="list-style-type: none"> <li>(v) Government should move all key WASH functions to the newly created Ministry of Water and Sanitation</li> <li>(vi) Review and align TOR for the WASH SWAp – the SWG, TWGs and JSR with planned WASH programmes and their deliverables so that achievements are effectively monitored</li> <li>(vii) Create special budget lines for leadership and governance structures at the central level to enhance effectiveness in their operations</li> <li>(viii) Cascade and replicate leadership and governance structures at Local Authority levels, with funding for their operations</li> <li>(ix) Build capacity for reporting of the leadership and governance structures at Local Authority level</li> </ul>

### Issue II *Incomplete harmonization of WASH sector legal and policy frameworks*

**Bottleneck** Key regulatory frameworks for WASH sector governance are not fully harmonized

**Causes** Several legal and policy documents provide different WASH guidelines  
The principal WASH sector legislation is outdated, and not fully aligned with the current democratic cultures

**Consequences** Inadequate regulatory framework  
Fragmented regulatory framework imbalances in resource allocations among key WASH bodies/institutions

**Recommendations** (iii) The Ministry of Water and Sanitation, jointly with the National Planning Commission should speed up the process of reviewing key laws and policy documents relevant to the effective functioning of the WASH sector  
(iv) Prioritize the review of the laws and policy documents that operationalize the autonomy of Local Authorities, Water Boards, and other semi-autonomous services providers to align them with national priorities

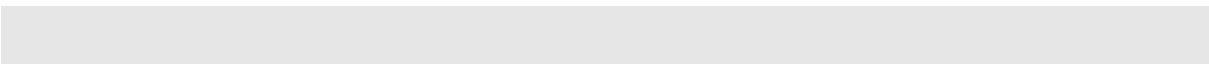
**Issue III** *Ineffective WASH sector policy planning*

**Bottleneck** WASH policy planning connected with individual ministerial policy priorities

**Causes** Planning based on priorities of individual ministries and according to ministerial mandates  
WASH policy guidelines not harmonized across the ministries

**Consequences** WASH is not a priority in relation/compared to other key ministerial policy mandates

**Recommendations** (iv) Institutionalize WASH policy planning in the Ministry of Water and Sanitation and the National Planning Commission (NPC).  
(v) NPC should mainstream and prioritize WASH in all the three pillars of national development outlined in MW2063  
(vi) NPC jointly with the Ministry of Water and Sanitation should commission periodic policy reviews and WASH guidelines for other stakeholders





<b><i>Limited and ineffective functionality of oversight and accountability structures</i></b>	
<b>Issue IV</b>	
<b>Bottleneck</b>	Oversight and accountability structures are not functioning optimally at all levels of the health sector
<b>Causes</b>	Incomplete legislative/regulatory frameworks for oversight and accountability in the WASH sector Inadequate capacity of the oversight and accountability structures at the Local Authority level
<b>Consequences</b>	Weak mandates and powers of oversight and accountability structures Recommendations of oversight and accountability structures not binding Local/community voices not filtering into policy planning and implementation Beneficiary participation is undermined
<b>Recommendations</b>	<ul style="list-style-type: none"> <li>(iv) Local authorities should sign MOUs and Service Charters with all WASH services providers in their areas of jurisdiction</li> <li>(v) Strengthen the oversight and accountability capacities of Local Authority and community level local governance structures.</li> <li>(vi) Roll out and enforce citizen charters at every WASH facility where services are provided</li> </ul>

### **3.1.2 Coordination of stakeholders**

The second set of recommendations relate to the coordination and participation of non-state and donor partner stakeholders in the WASH sector

<b><i>Limited stakeholder coordination and alignment to official WASH sector priorities</i></b>	
<b>Issue I</b>	
<b>Bottleneck</b>	Various stakeholders are not properly coordinated from central level to Local Authority level
<b>Causes</b>	Major donor-funded programmes operate in silos Not all key stakeholders are involved in MOU processes, especially at Local Authority level Local Authorities and private sector WASH providers not adequately involved in joint planning, implementation, monitoring and evaluation

<b>Consequences</b>	<p>No clear evidence for enforcement of principles of aid effectiveness and development cooperation at the national and subnational levels</p> <p>No systematic updating and alignment of MOUs to national strategic documents</p> <p>No evidence for joint planning</p> <p>No evidence for joint risk management</p>
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<b>Recommendations</b>	<ul style="list-style-type: none"> <li>(vi) The Government and the development partners should follow and implement the contents of the Sector Wide Investment Plan</li> <li>(vii) Implement One-Wash-One budget- One M&amp;E system for the WASH sector</li> <li>(viii) Development partners should align their programmes with national WASH strategic documents, policies, and laws</li> <li>(ix) WASH funding systems should be align with government systems. Increased donor support can fragment the provider payment system.</li> <li>(x) Make provisions that enable funds to be pooled from multiple sources and purchase a package of essential services from providers in a unified manner. Ensure that ongoing investments into the new financial management information system caters for service delivery needs. This could include access to accounting and reporting modules used by providers.</li> <li>(xi) Institutionalize joint planning, joint periodic reviews, and joint risk management at both central and local levels, by making these processes mandatory for every WASH programme</li> </ul>
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<b>Issue II</b>	<b><i>Inefficient and ineffective Public Private Partnerships (PPPs)</i></b>
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<b>Bottleneck</b>	Policy frameworks guiding PPPs in the WASH sector are rather unclear and not consistent with new developments in the sector.
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<b>Causes</b>	<p>Capacity for developing effective PPP frameworks is limited</p> <p>No common understanding of the concept of PPs in the WASH sector</p>
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<b>Consequences</b>	<p>Capacity for effective PPP negotiation is limited</p> <p>Capacity of contracting at the central and local authority levels is limited</p>
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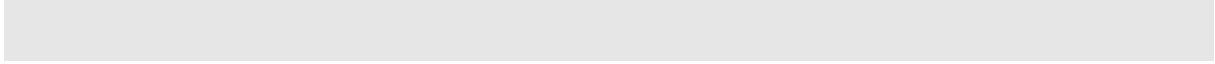
Capacities of the contracted non-state actors is also limited  
 Institutional mechanisms for value for money assessments and continuous PPP monitoring at both the national and the local authority levels are not functional, if not non-existent  
 Evidence for awareness and understanding of the PPP Strategy is unclear  
 Reviews of PPPs in the WASH sector are not common

- Recommendations**
- (vi) The Ministry of Water and Sanitation, jointly with the NPC and the Privatization Commission should embark on, and fast-track the review of PPP policy frameworks and guidelines in the WASH sector
  - (vii) Develop a WASH sector infrastructural development plan with private sector involvement
  - (viii) Build capacity in WASH Sector Managers in contracting, PPPs negotiations and management
  - (ix) Institutionalize and increase the involvement of private sector and CSO WASH services providers in oversight structures at central and local authority levels
  - (x) Review all MUOs in operation in the WASH sector and align them to national strategic documents – including the NSPS
  - (xi) Local Authority councils, should develop and sign MOUs with all the services providers at the district levels

### 3.1.3 Development of WASH databases

The recommendations below apply to all the stakeholders in the WASH sector

<b>Issue I</b>	<b><i>Absence of centralized WASH management information system</i></b>
<b>Bottleneck</b>	Unavailability of ready to use and up-to-date WASH databases
<b>Cause</b>	WASH data scattered in too many institutions WASH functions constantly shifting from one ministry to the others Culture of information sharing not institutionalized
<b>Consequences</b>	No comprehensive data on WASH Fragmented data available in various places
<b>Solutions</b>	(iii) Create a national WASH information management system in the Ministry of Water and Sanitation (iv) Development partner, APHRC, and other support institutions should assist the development of WASH databases in local authorities and capacity building in the same



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