

Report of the Independent Appraiser of the National Dialogue Program

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1. Background:

At the World Summit on Sustainable Development (2002), world leaders from 193 countries committed themselves to the Johannesburg Plan of Implementation. It included a commitment that governments would prepare national IWRM and water efficiency plans by 2005. Global Water Partnership (GWP) conducted a survey in 2005 in member countries to look at the progress in meeting this ambitious target. The survey was also an assessment of the movement towards water management reform through IWRM plans. The survey identified gaps in implementation. The survey report titled "Setting the Stage for Change" was published in February 2006. In the case of Nepal, Nepal Water Partnership/JVS was asked to propose programs that would help fill the gaps and promote IWRM. Generally titled as the 'National Dialogue Program', NWP/JVS's proposals were approved and funded by the GWP through the Regional Water Partnership (South Asia). As required by the RWP, NWP/JVS appointed the author of this report as an 'Independent Appraiser' of the completed part of the program. The TOR for the assignment is attached as annex of this report.

2. The Survey Report (2006) on Nepal:

The Second Informal Survey Report on the Status of the 2005 World Summit on Sustainable Development Targets on the National IWRM and Water Efficiency Plans, February 2006, has placed Nepal at the second level which includes "countries that are in the process of preparing national strategies or plans but require further work to live up to the requirements of an IWRM approach".

Specifically, it says that:

- Nepal has a 'draft' water policy which has been in preparation since Dec. 2004 and is expected to be finalized in Dec. 2006.
- Nepal has incorporated principles of sound water management in key official documents relating to poverty reduction, national development strategies to achieve the MDGs, agriculture, energy etc.

- Nepal has a Water Resources Act (1992) covering participation by stakeholders, decentralization, and financial contribution by users, separation of responsibilities for resource management and water use as well as environmental conservation.
- Nepal has formulated and adopted a Water Resources Strategy since Jan. 2002 and (based on this strategy document) prepared a National Water Plan (effectively an action plan) in Sept. 2005, encompassing the basis of IWRM.
- The Water and Energy Commission is the integrated monitoring authority of the National Water Plan. The Commission also has a mandate to form river basin organizations for integrated water use and management. Additionally they are authorized to act as a facilitating agency for IWRM capacity development.
- The Water and Energy Commission Secretariat, the Department of Hydrology and Meteorology, the Department of Water Induced Disaster Prevention, and the Department of Soil Conservation have a mandate for cross-sectoral water resources management and stakeholder participation.
- Nepal has embedded IWRM principles in the regulatory framework of water resources management.
- The Water Policy and the ongoing institutional reform need to be completed.
- The Water Resources Strategy (2002), the National Water Plan (2005) and the Water Resources Act (1992) are yet to be harmonized.
- It is estimated that the country will fully meet the 2005 WSSD target by the end of 2006.
- The present political instability constrains effective policy and plan implementation.

So, the questions that may be raised regarding the gaps can be:

- Has the Water Policy been finalized and adopted?
- Has the Water Resources Act (1992) been fully functional and effective?
- Has the Water and Energy Commission been able to exercise its authority and fulfill its mandate?
- Are the different agencies related to cross-sectoral water management functioning in a team spirit and cooperating and coordinating with one another?
- Are the different water related regulatory instruments harmonized?
- Has the country met 2005 WSSD target?

3. National Dialogue Program:

Nepal Water Partnership/JVS articulated the gaps identified in the Survey Report (2006) as:

- a. Institutional reforms identified in the Water Resources Strategy (2002) and National Water Plan (2005) need to be completed, and
- b. Harmonization of Water Resources Strategy (2002), National Water Plan (2005) and Water Resource Act (1992) necessary.

As an aid to fill these gaps NWP/JVS proposed the following two programs in the initial phase:

Dialogues to promote Water Rights under National Water Plan (hereinafter abbreviated as NWPlan) within decentralized system of Nepal (hereinafter referred to as Prog1); and

Introduction of Local Water Parliament (LWP) to promote the IWRM concept and its process documentation (hereinafter referred to as Prog2).

The time periods and budgets for both programs were 12 months and USD 13 000 respectively.

3.1 Rationale for the selection of the program:

As noted by the survey report and as documented by NWP/JVS reports and elsewhere, Nepal is in a position where many basic regulatory instruments and long term plans are in place. Many of these may not have been functional or effective because corollary instruments (like regulations, guidelines and by-laws) are yet to be finalized or even be initiated. But the most important requirement at this point of time in Nepal, is the awareness creation and capacity building among the masses and opinion leaders. The last two years have been tumultuous in the political scene. People, either as individuals or as a mass, have brought in unprecedented change in the political behavior of the nation. The process is still on. The flow of blood from martyrs and wounded and maimed persons has brought in an irreversible sense of political rights of each individual.

The time will soon come when the empowered people will be demanding efficient services and effective delivery. So, in the context of water, this is the time to organize different strata of people and engage them in dialogues on the wide-ranging aspects of water so that the gulf between expectations

and realities get narrowed and conflicts are minimized and addressed with the strength of knowledge. The issues of water rights and their resolution have to be freed from the confines of hardcopy and their generators and taken to the public. IWRM has to have a meaning for the common man for use as well as conservation of water and protection of the eco-system. Thus, the proposals of NWP/JVS and their implementation are timely, appropriate and a very good beginning.

3.2 Objectives, Expected Outcomes, Activities and Achievements:

3.2.1 Prog1 (Dialogues on Water Rights):

3.2.1.1 Objectives:

The main objective of this program (as stated in the proposal) was to initiate a dialogue with the concerned stakeholders in National, Regional and Local level to bridge the gaps as identified in the Survey Report 2006 and to disseminate different policies of the water resources sector to wider groups of stakeholders in the context of IWRM.

3.2.1.2 Expected Outcomes:

The dialogues will further smoothen implementation of IWRM and promote water rights under NWPlan within decentralized system of Nepal.

3.2.1.3 Activities:

Pre-Dialogue Communication
Preparation of Dialogue Papers
Organization of Dialogue Programs
Reports and Dissemination

3.2.1.4 Achievements:

Physical: a) Three Dialogue papers prepared: "Data Management in the context of National Water Plan and its decentralized systems"; "IWRM Principles and Water Rights"; "National Water Plans and the Legal Regime on Water Resources" b) Three Dialogue programs organized: In Bharatpur of Chitwan District on 10/04/07 (district level); In Pokhara of Gandaki Basin on 04/05/07 (basin level); In Kathmandu (capital city) on 12/07/07 (national level); c) Reports prepared and disseminated

Feedback and conclusions:

As summarized in the Chair's Report, some of these are:

- The problems of water rights are ... due to lack of effective instruments such as rules, regulations, guidelines that follow the WR Act (1992) and (inadequate) institutional set-up.
- Almost every end user is in water stress ... due lack of sustainability of infrastructure ... and clarity in rights and responsibilities of the stakeholders.
- Securing water rights of the country as a co-riperian of the Ganga basin is as important as securing rights of stakeholders within the country.
- Domestic use of water should be given special focus in development and management, if quality of life of women were to improve.
- Court cases on water rights ... and water related disputes caused by large-scale resettlement etc. could be bases for framing future water laws.
- The law should stipulate physical presence and participation of women in water users' organizations (to ensure gender equity).
- Mandatory clearance stating no service fee dues from WUAs for selling/buying of irrigated lands could be one way of ensuring collection of irrigation service fees, (preferably) on a volumetric basis.

3.2.1.5 Appraiser's Comment

In one of the reports of NWP/JVS¹ it is stated "that the outcome of this dialogue has been that the government realized the need of executing comprehensive legal and institutional restructures identified by NWPlan as soon as possible. It was also realized that there could be meaningful joint effort between government and the national NGO, in this respect. As such Memorandum of Understanding has been signed between JVS, the host institution of Nepal Water Partnership and Water and Energy Commission Secretariat (WECS), Government of Nepal to work together in implementing NWPlan. This is a landmark outcome of the dialogue on Water Rights in particular and the implementation of the principles of IWRM in general."

The MoU being a tangible reality, the National Dialogue Program deserves to be applauded. But going by the Final Report², what went on might as well be termed a procession of monologues, both by the paper presenters as well as the audience. Specific comments regarding what was presented is hard to

¹ Report on Country Dialogues based on GWP IWRM Survey 2005- Nepal and (Programme undertaken in the year 2007)

² Dialogues to promote Water Rights under National Water Plan (NWP) within decentralized system of Nepal - Final Report; NWP/JVS, Kathmandu, Nepal. July 2007

find, and incongruous statements stand out. At times it gives the impression of a "dialogue of the deaf", meaning "a discussion or negotiation in which each side completely ignores the needs or arguments of the other".³ Apparently the shortcoming lies in reporting the event rather than the event itself.

The "Dialogue Papers" presented at all the three levels and venues were the same and the invitees (target group) were 'of the same feather' - officers, media men, politicians - elites in general. These are not objectionable, rather can be defended on basis of the need of consistency. But what is starkly lacking is an analytical differentiation of outcomes to justify the labeling of three different levels: district, regional (basin), and national. Apparently, here also, the shortcoming lies in reporting and desk work rather than the effort and the event.

3.2.2 Prog2 (Local Water Parliament)

3.2.2.1 Objectives:

The main objective of this program (as stated in the proposal) was to initiate a dialogue with the concerned stakeholders to establish a Water Parliament in Melamchi Valley area at Sindhupalchowk district. There is a wider use of water resources by different stake holders in this area. The drinking water project for the Kathmandu valley is being constructed in this area and controversy in the use of water surfaces time and again.

3.2.2.2 Expected Outcomes:

The expected outcome of the proposed Water Parliament is to further the principles of IWRM in the Melamchi Valley area and give forum to discuss and decide on the use of water resources to all the concerned stakeholders. It is also expected that the success of this approach can be replicated in other areas.

3.2.2.3 Activities:

Pre-Dialogue Communication
Preparation of Dialogue Papers
Organization of Dialogue Programs
Reports and Dissemination

³ The World Book Dictionary

3.2.2.4 Achievements:

Physical: a) Three presentations made at the WP: "Local Water Parliament - Melamchi Valley area"; "Water Law"; "Integrated Water Resource Management" (All three presentations in Nepali) b) First set of four meetings held in four VDCs to brief the residents on the concept of WP and to seek representations in the WP (22nd and 23rd March, 2007; c) Second set of four meetings held in the VDCs devoting one full day at each site (12-15 May, 2007); d) Resource mapping of the four sites prepared by the local people themselves; e) All WP representatives assembled at a workshop meeting where the presentations were made and a Executive committee formed (14 June); f) Reports prepared and disseminated

Outcome and Impact:

As summarized in the Chair's Report, some of these are:

- A common platform for the stakeholders of Melamchi river basin, the local Water Parliament, is formed. Once strengthened, it would be responsible for local policy making, data keeping, sharing, negotiating, planning, and developing on water issues on the basis of IWRM principles.
- A group of local people equipped with the basics of IWRM and Water Law.

3.2.2.5 Appraiser's Comment

The concept of forming a Water Parliament at the local level and have it functioning well and productively is a huge challenge in a society where literacy rates are low, livelihoods are generally at a subsistence level and the society is tiered in terms of caste and ethnicity. But one might argue that these are the very reasons why a WP is needed. In Nepal's present context, the latter argument rises way above a mere statement and has the strength of a mass movement that has promised to build a new nation. To this appraiser, who had a chance to be present at the third meeting of representatives (14 June), what was most impressive was the way they felt and behaved like real Parliamentarians of the responsible kind. Their sense of taking on the responsibility and fighting for it was noteworthy. For them to function effectively, they needed support in the form of knowledge sharing, some technical skills, exposure and observation visits, and the art of articulation. Thus on a conceptual basis, the idea of promoting good water management through LWP in Nepal at the present time is an option that provides challenges, and therefore, opportunities.

It can be noted from the Final Report⁴ that participation in the first two sets of meetings (these were mass meetings) were less than satisfactory. This can be attributed to many factors including the limited time frame available of four months for the entire exercise. One needs to acknowledge, however, that this kind of exercise was probably the first in the country allowing for shortcomings on the part of organizers, resource persons and program coordinator.

Regarding the choice of 'target group', there are no two opinions on it. For this program, it had to be the local people and so it was. Speaking of the democratic process, inclusiveness, coverage, understanding etc., we have to remember that this was the first instance of initiating an exercise at the field level and whatever 'Parliament' that is formed is an ad-hoc informal body. The 'Chair's Report' has called it an 'infant'. I would term it as a 'dummy infant'. A lot of work is yet to done, but in today's Nepal, we are in the right track.

4. Assessment in totality and recommendations:

⁴ Process Documentation of LWP and Introduction of IWRM concept in LWP - Final Report - NWP/JVS June 2007

Annex

Terms of Reference for the Independent Appraiser

- Examine the IWRM Survey report and the gaps as noted down therein as required to be fulfilled by the country.
- Examine the programme as proposed by the CWP to meet these gaps assessing the capability of the proposal and activities undertaken to meet the expected outputs within the stipulated timelines and resource allocation.
- Assess whether the activities undertaken are the best choice/best fit in the given policy and operational environment, the adequacy of resources and timelines in line with activities undertaken.
- The scope and content of the activities and target groups as the most effective for the proposed outputs and impacts.
- Weaknesses if any with respect to assumptions made, resource mobilization and approaches undertaken.
- Any unexpected positive spin offs or gains that were not foreseen when programme was designed.
- Lessons for future activities and recommendations of a generic nature including if any for other countries in the region.
- Any other matters of significance/relevance