

Sudan Water Policy Legislation
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ABSTRACT: (9 pt) Water legislation is the legal instrument required to enable the implementation of water policy and create the enabling environment for effective water resources management. The paper shows the necessary steps that should be taken, within their respective jurisdiction, to ensure that the utilization and development of water resources within their territories is conducted in accordance with the concepts of cooperation and benefit sharing, integrated water resources management principles and practices, applicable international river law, including any agreements concluded between and among the interested states. At the end the paper put some recommendation to enhance the harmonization of legislation and removal of inconsistencies.

1. BACKGROUND

Legislation is the legal instrument required to enable the implementation of policy and to create the environment for effective water resources management. Water was generally considered to be in relative abundance in the Sudan, but this perception is changing and there is growing realization about the limitations of in-country fresh water and of transboundary water resources as well as the low level of water resources development.

Harnessing available resources for the beneficial use of the Sudanese people requires careful control. This can be achieved through legislation as the major objective of water is to establish a framework for the protection, management and control of water resources in the country. Appropriate water resources management will require appropriate and adequate legislation and mechanism for it to be enforced.

Currently, the water sector in the Sudan is governed by three overlapping and, sometimes contradicting legal regimes. These are:

- The legal regime established by the repealed Nile Pumps Control Act 1939, since the 1951 Regulations made there under have been save by the Water Resources Act 1995, are still in force.
- The legal regime established by the Irrigation and Drainage Act 1990 which complements the first legal regime and, therefore, has not repealed the Nile Pumps Control Act 1939. The two major developments introduced by the second legal regime were that it broadened the scope of the 1939 legal regime to include drainage activities.

- The legal regime which is currently in force established by the Water Resources Act in 1995. It has repealed the Nile Pumps Control Act of 1939, but it has retained the 1951 regulations.

2. OBJECTIVE

The main objective of this paper is to make recommendations to address the inconsistencies, redundancies and contradictions which have developed over the years, so as to enable concerned authorities to align legislation related to water with the principles and practices of Integrated Water Resources Management (IWRM) and cooperation on shared or transboundary water resources. Also the purpose is to review relevant legislation and recommended amendments to update the existing water legislation to implement and enforce the national water policy which is in harmony with other related sector policies taking into consideration addressing the transboundary dimension and providing effective administrative and regulatory mechanisms at appropriate levels.

- Analysis, evaluation and planning of future course of management action.
- Provision and enforcement of laws and regulations,
- Production and allocation of water,
- Provision of information to water uses activities.
- Provision of incentives to improve water use.

Monitoring collection of data on the performance of the water resources and its use.

3. TRANSBOUNDARY IMPLICATIONS AND BENEFITS

3.1 The interconnection between the water resources of an international basin makes it desirable that:

- The basin states should agree on the international rules that should govern the utilization and development of the water resources.
- Necessary steps should be taken within their respective jurisdiction, to ensure that the utilization and development of water resources within their territories is conducted in accordance with the concepts of cooperation and benefits sharing, integrated water resources management principles and practices, applicable international river law, including any agreements concluded between and among the interested states.

The minimum steps necessary for this purpose consist primarily of unilateral legislative and regulatory measures by each basin state that permits the water resources within its territories to be utilized and developed in such a way that the set objectives and the corresponding interests of the other Nile states are not significantly impaired.

3.2 The national legislation should be harmonized in the following situations:

- Where the matter is significant in the basin-wide water policy and water management ,
- Where there is discriminatory impact on non-national users, and
- Where national users are placed at competitive disadvantage with respect to a similar class of users in other riparian states.

The removal of legal conflicts and the enactment of needed provisions in the respective riparian state codes are essential to water use optimization and to the promotion of regional development generally.

3.3 The complete legal framework of the utilization, development and protection of the water resources of the Nile Basin, when an agreement has been reached, consist primarily of two aspects:

- The international principles and rules agreed upon or observed with respect to the utilization and development of the water resources of the Nile Basin, and
- The legislation and regulations enacted by each interested riparian state in the light of such international principles and rules.

4. CONTENTS OF LEGISLATION RELATED TO WATER POLICY IN SUDAN

Different legislations have been established since 1907 related to water policy in Sudan, some of these are:

1. The Locus Destruction Act 1907,
2. The Land Settlement and Registration Act 1925,
3. The Nile Pumps Control (General) Regulations 1951,
4. The Fresh Water Fisheries Act 1954,
5. The Agricultural Bank Act 1957,
6. The Water-Hyacinth Control Act 1960,
7. The Sudan River Transport corporation Act 1973,
8. The Water Resources Act 1995:

The Act has provided for the following interpretations:

- Ground Water.
 - Water Resources.
 - Surface Water.
 - Rivers other than the Nile.
 - Transboundry Water.
 - The Nile.
9. The National Water Corporation Act 1995,
 10. The Irrigation Water Corporation Act 1995,
- The Agricultural Research Corporation Act 1996,

5. NEED FOR RENOVATION AND MODERNIZATION OF WATER POLICY

In line with the requirements of political and economic changes and taking into account current regional and international affairs with regard to water, the following water policy must be updated:

- Balanced development of the country,
- Confront the effect of climate change,
- Optimum utilization of water resources,

- The need for coordination and development of legislation between users and institutions working in the field of water,
- Capacity building in the development and management of water resources,
- Pollution control,
- Participation of stakeholders in the sustainable management of water resources, and
- The requirements of regional and international cooperation.

6. RECOMMENDATIONS

As we mentioned before the purpose of this paper is to review and to make recommendations to update the existing water legislation to implement and enforce the national water policy which is in harmony with other related sector policies taking into consideration addressing the transboundary dimension and providing effective administrative and regulatory mechanisms at appropriate levels.

Also the instructions addressing stakeholders involvement were particularly valuable.

Despite the developments that have been made by different legal's regime for water resources, nevertheless, there are still lope holes, redundancy, overlap and many other shortcomings. Such as in the Water Resources Act 1995, I recommend that the water resources projects processed for granting them facilities under the Encouragement of Investment Act should have prior approval from the Ministry of Irrigation and Water Resources.

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