

Overview of Water Resources Management Policy Framework of Ethiopia

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Abstract

Ethiopia has already set out progressive water policy, strategy, proclamations and regulations to promote and enhances the development, management and protection of water. But the degree to which the development has done was highly important rather than the focus of management and protection, though it has been stated in the instruments indicated. But continuous and more use of water for different purposes has been grown from time to time for the last two decades and scarcity of water is becoming an important issue in the nation. Therefore such issues can be solved by strictly focusing to the management and protection of the resources which again requires the way how the legal instruments of Ethiopia is set up. Review of the capacity of implementing institutions and the creation of awareness about the legal instruments and how these tools can be practiced in the community is therefore essential. This paper therefore gives review of some basic policy issues and enactments which are practiced in the country.

Key words: Water policy, Water Proclamations, Regulations, Institutions,

Introduction

The geographical location of Ethiopia and its endowment with favorable climate provides a relatively higher amount of rainfall in the region. Much of the runoff water, however, flows across the borders being carried away by the trans-boundary Rivers to the neighboring countries. Preliminary studies indicate that the country has an annual surface runoff of close to 122 billion cubic meters of water and ground water potential of about 2.6 Billion cubic meters (policy document of Ethiopia). The main water resources problem in Ethiopia is that of uneven spatial and temporal occurrence and distribution. Between 80-90% of Ethiopia's water resources is found in the four main river basins namely, Abay (Blue Nile), Tekeze, Baro Akobo, and Omo Gibe in the west

and south-western part of Ethiopia where the population is no more than 30 to 40 percent. On the other hand, the water resources available in the east and central river basins are only 10 to 20 percent whereas the population in these basins is over 60 percent.

In order to alleviate the problems on agricultural development and other water uses, sustainable and reliable development and proper use of the water resources of Ethiopia becomes an imperative. This calls for a priority setting and judicious water resources management policy, associated finance and capacity building.

Perceptions of Water

Water has multiple aspects and is perceived by different people in different ways: *as a commodity, as common resource, as a basic right and as a sacred resource*. We need to be aware that what is true of one of the multiple dimensions or aspects of water may not hold for another. Unfortunately, at any given time, one or more perceptions tend to dominate our thinking, and thus lead us to draw wrong conclusions and formulating wrong prescriptions (Ramaswamy, 2003).

Water as a commodity

To many of us, especially for Ethiopians, the notion of water as a commodity seems unacceptable when we see it in terms of religious aspects. However, the use of water for irrigation in commercial agriculture, the use of water for cooling or steam generation or industrial processes, luxury uses by the affluent in swimming pools, gardening and so on would describe water as a commodity. A hotel may need large quantities of water for keeping its kitchens, bathrooms, toilets, laundry, swimming pools and other recreational facilities operational, and may enter into contracts with supplying agencies for bulk water supplies on a regular basis in such transactions water is definitely described as a commodity.

Questions of equity, social justice and resource conservation do arise in such cases, and we may wish to limit or relate or discourage the use, or ensure that proper prices are charged but it seems hardly possible to rule out such uses or the related transactions



altogether, and to the extent that they take place, water is indeed a commodity in these contexts. However, no one is quite comfortable with the crude description of water as a commodity, so a more sophisticated formulation has been found: water is now generally described as '*an economic and social good* !!

Water as a common resource

Under the 'dipn n pot' principle, the water body on common land, we can think of it as owned by the community. With larger water bodies, and with streams and rivers, difficulties begin to arise in the form of 'water source belongs to the community as a whole, and that the conflicts that arise can be resolved within that overall framework. The notion of commons also runs into difficulties in the context of urban water supply systems (where an agency, whether public or private, supplies water to citizens by a network pipelines from its storages), or in that of the supply of irrigation water through canals from large reservoirs, whether state owned or privately owned.

The notion of commons has a value even in such contexts. What we are trying to do is to deny the *qsjwbu! ps! tubu! px ofsti j! pg x bufs! boe! up! wftu u bu px ofsti j! jo! 'djwjt tpdjfu ! Cvu epft! boz! qfstpo ! cpez! ps! jotujwujpo* - even civil society - own water? (Ramaswamy, 2003). Incidentally, we must be wary of unduly enlarging the geographical scope of *ti fl jefbt! pg 'dnp n pot ! boe! 'dnp n voju ! Jgx flx jefo! u fl opujpo! pg 'dnp n voju ! up! dpwfs! u fl tubu! bt! bl x i prfi! ps! hp! pof! tufq! gysu fs! boe! fodpn qbt! pg* entire nation and we might wish to do so for certain legitimate purposes - it may be difficult to resist further expansion to the globe as a whole, There are serious *jn qnjdbujpot! up! bddfqu bl eftdsjqijpo! pg x bufs! bt! bl 'hpc bndpn n pot ! bobvbsbtsftpvdsf!* that belongs to all humanity, the dangers are obvious enough. When we use expressions *tvdi !bt! 'dnp n pot ps! 'dnp n voju! n bobhfn fou! x fl vtvmz! i bwf! pndbndpoufyu jo! n joe!* (one village or a cluster of villages/watershed) (Ramaswamy, 2003).

Water as a basic right

Water sustains life. In that aspect it is a basic need and therefore a basic right. This does not automatically mean that water is a basic right. In societies of the past, people might not have needed the language of rights. However in modern societies, why it has become a basic or fundamental right. The perception of water as a basic right is very important and we need both perceptions (water as basic right and water as commons) and must learn to harmonize them.

Water as a sacred resource

The fact that water supports life, and that it is also as part of the natural environment, makes it a sacred resource. Especially in the Christians, some waters are hallowed and used for treatment of any physical and spiritual defects in the society. Water has also a special value in Muslim society.

Water and the Constitution of Ethiopia

Water is an invaluable natural endowment whose ownership has undisputedly been vested in the state and all the peoples of Ethiopia. It is not something to be claimed as an out-right item of private property in an exclusive manner. That is at least the constitutional tone of formalizing and treating the nature and functions of our existing relationships with land and other natural resources in Ethiopia today.

Art. 40 Sub-Art.3 of the 1995 Constitution of the Federal Democratic Republic of Ethiopia (FDRE) provides for the exclusive ownership of rural and urban land as well as other natural resources by the state and the peoples of Ethiopia. In this regard, the constitution provides that the state shall have the right to regulate the use of land and other natural resources in accordance with the policies, strategies and plans in respect of overall economic and social development.

An interesting departure is also laid down under Art.51 Sub-Art. (11), as far as the efusn jobujpo! boe!n bobhfn foupgü f! dpvouz t! tvsgbdf! x bufs! sftpvstf! bsf! dpodfsofe! Here, the constitutional mandate of the Federal Government is somehow compromised and explicitly confined to the virtual determination and administration of the utilization of those waters or rivers and lakes linking two or more Regional States or crossing the boundaries of the national territorial jurisdiction. This naturally flows from the general clause under Art. 50 Sub-Art. (5) which already empowers the Regional Legislatures to also enact and implement their own subsidiary laws and regulations with respect to those matters falling under their jurisdictional mandates as are to be further elaborated under the subsequent provisions of Art. 52 Sub-Articles (2) (B) (C) and (D) of the Federal constitution.

Regardless of its diverse forms, water is a publicly owned natural asset to which all Ethiopians are entitled for normal use and enjoyment without any possible discrimination, wherever it might be available. Art. 90 Entry 1 of the constitution efdrst! ü f! gmpx joh! TpdjbnP ckfdujwf! x i jdi! tubf! bt ! Up! ü f! fyufou ü f! dpvouz t! resources permit, policies shall aim to provide all Ethiopians access to public health and education, clean water! i pvtjoh! gpe! boe! tpdjbnP fdivsjuz‘ / To satisfy the Economic Objectives of the people, Art. 89 Entry 1 of the constitution also states that Hpwfson fou ti bnti bwf! ü f! evuz! up! gpn vrbu! qpndjft! x i jdi! fotvsf! ü bu bnti F ü jpqjbot! can benefit from the country t! rihbdz! pgjouf rfiduwbnti boe!n bufsjbnP sftpvstf‘.

Policy and Legislative Regimes

Water Resources Management Policy

In order to alleviate the problems on agricultural outputs and other water uses, sustainable and reliable development and proper use of the water resources of Ethiopia becomes an imperative. This calls for a priority setting and judicious water resources management policy and associated finance.

Development activities carried out so far before 1999 G.C (i.e before the formulation document of the water policy) in the water sector in totality or individually reveal a very

low level of performance in the water development sector. The cause for this poor achievement and the dilemma for low use of the country's water resources to significantly contribute to the overall socio-economic development of the Ethiopians laid mainly in the absence of a well defined coherent policy and the lack of the required huge investment, as it was stated in policy document of Ethiopia, 1999. Taking this pressing need in to account, the Ethiopian Water Resource Management Policy was initiated, formulated and adopted at the national level for the very first time in 1999. According to this pioneering and qualitatively-transformative document of its kind (as compared to other policy documents in the world), the policy states that every Ethiopian citizen, as far as conditions permit, have access to sufficient water of acceptable quality for their basic needs and for their economic and social development.

The policy was formulated to achieve the following objectives: to enhance and promote all national efforts towards the efficient, equitable and optimum utilization of the available Water Resources of Ethiopia for significant socioeconomic development, management and protection and conservation (Entry 1.2).

In this policy goal, the phrases **efficient, equitable and optimum utilization** of the National water resources are very important. To fulfill this policy goal in the rate of the above terms the general water resources management policy objectives fall in **development, management and protection and conservation** (Entry 1.2).

The objectives are generated from fundamental policy principles which guide the **equitable, sustainable and efficient** development, utilization, conservation and protection of water resources of Ethiopia (Entry 1.3). These principles include: 1) water is a natural endowment commonly owned by all the peoples of Ethiopia, 2) every Ethiopian citizen shall have access to sufficient water of acceptable quality, to satisfy basic human needs, 3) water shall be recognized both as an economic and a social good, and 4) water resources development shall be underpinned on rural-centered, decentralized management, participatory approach as well as integrated framework.

Water Resources Management Strategy

Development of the water sector strategic document was essential with the main objective of translating the national water resources management policy into action. The national water strategy aims at providing a road map in terms of ways and means to attain the water policy objectives - with due recognition to the principles around which these objectives have been developed in 2001. The general objectives and fundamental principles of developing the water sector strategic document are similar to that of the National Water Policy. Towards this aim, the following strategic directions have been adapted with respect to main elements of the strategy.

- ✓ Water Resource Development (1 Lists)
 - Design and construct water schemes for different uses
- ✓ Water Resources Management (4 Lists)
 - Water resource inventory
 - Watershed management
 - Basin information management (BIS)
 - River management
- ✓ The Enabling Environment
 - Institutions (National, Regional, Zonal, Woreda, WUA)
 - Research Institutes
 - Water Universities
 - Private sector consultants and contractors
- ✓ Transboundary Waters
- ✓ Finance and Economics
- ✓ Research and Development
- ✓ Stakeholders Participation
- ✓ Gender Mainstreaming
- ✓ Disasters and Public Safety
- ✓ Environment and Health Standards
- ✓ Technology and Engineering

Understandably, it is to address this critical shortfall with multi-dimensional purposes that the Water Sector Development Program (WSDP) (2002-2016) was next put into effect in 2002. The program had five wings, i.e water supply and sewerage, irrigation



and drainage, hydro- power development, water resources and institutional capacity building, among others.

Water Resources Management Proclamation

In as much as the Ethiopian Water Resource Management Policy generally promotes the sustainable development of existing water resources for equitable social and economic benefits through public participation with particular emphasis on the expansion of water supply and sanitation, irrigation development and power generation. Consequently, the need for a stronger legal framework also became visible with the view to redefining the emerging concepts and clarifying both the specific and crosscutting duties and responsibilities of these key institutions and other stakeholders which might be involved in the sector.

The lead piece of legislation in this regard which the Federal Government has enacted following the issuance of the policy is the Water Resource Management Proclamation No. 197/2000. Having replaced the earlier Proclamation No. 92/1994 which happened to solely provide for the utilization of water resources, the latest piece of legislation represents a multi-dimensional instrument, with its core element of regulation being the surface water resources and groundwater resources. The Proclamation states that the surface water resources and groundwater resources existing throughout the country are properly managed and protected.

Article 6 of the Proclamation states that all water resources of Ethiopia are declared as national property. Moreover, Art. 6 set out the fundamental principles of water management and administration. In that respect, the use of water for domestic purposes is declared to prevail over all other uses, potential and actual. Article 7 of same also set out the priority of water use in accordance with the orders of **domestic, livestock, irrigation and other water uses**. It also states that pre-allocation of water resources to a given purpose or its being planned shall not give it a priority over and above any other use (Art. 7 Entry 2).

The Ethiopian integrated water resource management proclamation also states how the water bodies and banks can be protected. It states that the supervising body, in collaboration and consultation with the appropriate public body may (Art. 25): delimit the boundaries of banks of the water bodies, prohibit clearing, cutting trees and construction of towns within the delimited banks of water bodies. Article 26 also states that the appropriate public bodies shall, before allowing the founding of towns or villages, request the supervising body for technical advice.

Apart from the general and transitory provisions, the proclamation contains a wide range of specific stipulations on the

registry of actions, permits and professional licenses, fees and water charges, servitude, water banks and harmful effect of water, association of water users as well as the duties and responsibilities of the supervising body charged with the overall implementation of the legislation and subsequent regulations at the national level. For instance, **supply or transfer of water, release or discharge of waste into water bodies as well as construction or maintenance of water works requires a necessary permit** to be issued by the supervising body which, in this case, might be either the Ministry of Water and Energy or any other organ delegated by it in accordance with Arts. 11 through 18 of the proclamation under discussion. Obviously, Art.12 lists those water uses, for which no prior permit is required, under the circumstances.

Water Resources Management Regulation

On closer examination, one can find out that almost every substantive provision of the proclamation requires an enabling legislation to be eventually put into effect. Nevertheless, it was after half a decade that the Federal Government had finally succeeded in issuing the Council of Ministers Regulations No. 115/2005 necessary for the effective implementation of the proclamation. Of course, a considerable range of

dsvdjbthjttvft! jodme joh! x bufs! sftpv sdf! vujnj bujpo ! x bufs! r vbnjuz! dpouspn! x bufs! x psl t ! qfsn ju! gfft! boe! di bshft ! x bufs! vtfst ! associations, dispute settlement and certification



of professional competence are regulated under this executive instrument to a sufficient detail required for an outright implementation.

River Basin Councils and Authorities Proclamation

The distribution of the water resources of Ethiopia is uneven in time and space, and on uses with quantitative as well as qualitative impacts. Given this natural disparity, the Integrated Water Resource Management (IWRM) process necessitates a systematized mediation and reconciliation of the various uses of water resources available within the limit of a defined river basin with the view to maintaining the required balance as between the competing interests and thereby ensuring sustainable development of the resource potential, not to jeopardize the opportunity of future exploitation by our succeeding generations. To that end, the mechanism requires all the outstanding stakeholders of a river basin to act and utilize the resource in a coordinated manner, in spite of their differences of approaches, interests and perceptions of the effects of their decisions, plans and activities on the state of the hydrological cycle and on other users alike. In accordance with this notion the Ethiopian Water Resources Management Policy envisages the establishment of river basin councils and authorities as one of the main instruments to implement integrated water resources management which is actually the pillar of the policy.

Therefore the establishment of river basin councils and authorities shall have significant contributions in creating efficient and stable mechanisms for the implementation of the Ethiopian Water Resources Management Policy through river basin plans and effective and sustainable joint management by relevant stakeholders of the water resources of the basins.

Up!epl!u bu! S jwfs!Cbt jo!Dpvodjrt! boe!Bvu! psjuft!‘!i bwf!c ffo!ftubc nji fe!x i ptf!pwfsbrn objectives shall be to promote and monitor the integrated water resources management process in the river basins falling under their jurisdictions with a view to using of the cbt jot !x bufs!sftpvdsft!ggs!u f!tpdj-economic welfare of the people in an equitable and



participatory manner, and without compromising the sustainability of the aquatic ecosystems (River Basin Councils and Authorities Proclamation No. 534/2007).

According to Art. 2 sub-arts. (1) Of the proclamation under consideration, the term Cbt jo' ! tuboet! gns! B! hfphsbqi jdbnbsf! described by the watershed limits of a water tztufn ! jodme joh! tvsgbdf! boe! voefshspvoe! x bufs! gpx joh! joup! b! dpn n po! ufsn jovt' ! Jo! an apparent compliance with the requirements of this definition, 11 river basins and one S jgl Wbnfz! Mbl ft ! c bt jo! bsf! jefoujgife! u spughout the country, although a significant number of them naturally form part and parcel of the international water system flowing into our neighboring countries and beyond. Unless one wishes to complicate it, therefore, IWRM is nothing other than a cooperative arrangement between and among stakeholders for a balanced and sustainable development of water as an economic, social and environmental resource by having equitably reconciled its various uses in an identified river basin pursuant to Art.2 sub Art. (4) of the same proclamation.

Using this general framework, it is the Federal Council of Ministers that has been rfhbm! n boebufe! up! ftubc nji ! pof!cz! pof! u! f! dpvouz t! S jwfs! Cbt jo! I jhi ! Dpvodjrt! boe! Authorities by separate regulations as envisaged under Art. 21 sub-arts. (1) of the said proclamation. However, only a couple of them are so far declared to have officially been established by law. These are the Abbay and Awash Basin high Councils and Authorities consecutively established as per the Council og N jo jtufst ! S fhvrhujpot! Op! 151 and 156/2008 respectively, with their official seats being in Bahir Dar, Amhara and Amibara, Afar Regional States, respectively.

As might be gathered from the cumulative reading of the establishing regulations the overall objective of each one of these authorities in the form of river basin organizations is to promote and monitor the implementation of the IWRM process in an equitable and participatory manner within the geographical limit of the basin concerned.

A River Basin Authority shall also give permits relating to water use and water works in compliance with the provisions of the Ethiopian Water Resources Management Proclamation No. 197/2000 and Regulations No. 115/2005. To that end, they are both

generously entrusted with a wide range of identical duties and responsibilities listed under Art. (6) of their respective instruments of establishment.

Nevertheless, it remains to be seen in real practice how such executive powers as the issuance of permits for water use and water works as well as the collection of water charges are to be exercised by the authorities without prejudice to the powers of the relevant Regional States legally having comparable jurisdiction over the resources in and around the river basins.

Review and Analysis of ANRS Water Resources Management Legislations

Present-day Ethiopia is a relatively-young Federation constituted by nine State Governments and two Chartered City Administrations. The ANRS is just such an entity with its own separate legislative, executive and judicial structures in the making as of 1995.

In its short-lived experience as a functional Regional Authority overwhelmed by scores of profound development challenges, one would perhaps be naive to expect that water resource management has been much of an ideal priority for a strategic action, mainly due to capacity constraints. Nevertheless, there have been protracted efforts on the legislative front, with their primary concern normally being on the provision, and participatory management of potable water supply and sewerage services for urban dwellers as well as the corresponding water delivery points for the benefit of the rural communities.

Apart from such rudimentary actions, the rather huge task of identifying the very potential, leave alone systematically regulating the actual utilization of both the surface and ground water resources across the Regional State should have technically been beyond the reach of the State Government in its early formation. On top of this, the very functions reserved for the State Government at the Regional level must have been substantially affected by persistent changes in terms of institutional mandate and operational dynamics, from the very outset.



In other words, the overall development, management, and utilization of the resource at the regional and local levels has been a bone of ever-lasting contention between and over another, mainly due to the multiplicity of its uses and characterizations. Without stressing much on the corresponding institutional fluctuations which had occurred to the environmental protection as well as rural land administration and land use affairs, the lead agency responsible for the sector, i.e, the Water Resource Development Bureau itself had to traverse through a terribly-repetitive and turbulent course of modifications and alterations in terms of structural and functional aspects. In fact, the bureau has officially been established and re-established six times to this date, within the entire period of not more than 15 years as of the constitutional existence of the Regional State.

Following the end of the Transitional Period in which all the newly-structured Regions had to experiment with the start of self-rule and local administration pursuant to the July 1991 Charter and the National-Regional self-Hpwwson fott! Fttbcniti n fott! spdrbn bujpo! No. 7/1992 enacted by the Central Transitional Government, the ANRS introduces its own 12 executive organs and broadly defines their respective powers and duties for the very first time by virtue of a locally-initiated legislation in Oct. 1995. One such executive organ established by Art. 3 sub-art. 4 of the Regional Proclamation No. 4/1995 was the Water Resource, Mining and Energy Development Bureau to primarily assume, among others, the official duties and responsibilities pertaining to the sector under consideration. In fact, those specific function of the bureau having to do with the energy promotion and development were later omitted in Nov. 2001 when the original piece of legislation was repealed and replaced by other incoming Proclamation No. 60/2001 reforming the organizational structure and composition of the Regional Government following the extensive revision of the State Constitution. At any rate, the X bufs! boe! N jofsbttS fttvpsdft ! Efwfmpqn fott! Cvsfbv !)bt! jti be! cffo! sfgfssfe! up! cz! u! fl time), was allowed to carry out its normal functions customary to the utilization and qspufdujpo! pg! u! flsfhjpo t! x bufs! sftvpsdft! bt! x fsf! psjhjobm! efgjofe! voefs! Bsu! 21! tvc - Arts. 1 through 7 plus sub-Arts. 9 and 14 of the former Proclamation No.4/1995, with no substantial modifications and further adjustments experienced for a few more years to follow.

As far as the evolutionary process and growing dynamisms of the water resource management in the Regional State is concerned, the most important breakthrough must have probably been observed in April 2004. This time around, the Amhara National Regional Water Resource Development Bureau was separately conceived and autonomously established by the Regional Proclamation No.99/2004 in order that it would be able to fully and exclusively focus on such demanding and inter-related activities as the development, utilization, conservation, protection and control of the water resource in a systematic manner.

The apparent quality and modernity of this latest legal instrument issued by the Regional State is presumably attributable to the inevitable influence of National Water Management Proclamation No. 197/2000, whose fundamental principles and operative provisions concurrently adhere to the adoption and implementation of the IWRM with the view to reconciling and balancing different interests in the areas of water allocation and use.

Consequently, all the ensuing Regional Proclamations No.120/2006, No.167/2009 and No.176/2010 relevant to the never-ending process of cabinet restructuring do more or less, tend to reproduce the underlying theme and content of that particular piece of legislation Gazetted in 2004 with minor alterations, when it comes to similar restructuring and adjustment of the Regional Water Resource Development Bureau from time to time. All the time the Bureau was and is mandated to develop, utilize, protect, administer and manage the water resource of the region. But there was no clear mandate boundary between the MoW and the bureau indicated in the water proclamation.

Starting from the regional Proclamation of BPR restructuring institutional frame work (2008), the bureau has been established in three wings as follows:

- ✓ Water supply and sanitation core process
- ✓ Irrigation and drainage study, design and construction core process
- ✓ Water resource management core process



Basically the IWRM part of the regional mandate was supervised by the water resource management core process with the main job titles of water research coordination team, data management team, water resource management (utilization, protection and administration) team and permit licensing team at the regional Bureau, data collection and water resource management (utilization, protection and administration) at each zone (10) and at each woreda.

Key issues

- The roles and responsibilities of the MoWE and the Regional Bureaus as a supervising body must have been clearly set in the proclamation rather than keeping it centralized both the regulatory and service provision functions. In other words, roles of national and sub-regional bodies are not clearly devolved and have little boundaries.
- The priority for water allocation to different uses such as domestic, environmental and socio economic activities depending on the availability of water resources was not strongly stated either in the proclamation or Regulation. There is no detail directive to implement well.
- The policy and proclamation instruments of the nation state the complete right of access for pure water and even food but same did not clearly state that every person residing in Ethiopia shall have a duty to safeguard and protect water resources. It also did not inform the relevant authority of any activity and phenomenon that may affect the quantity and quality of the water resource significantly and to whom to do so and also the legal protection for doing so.
- The legal instrument (Regulation) did not clearly state that the owner of any land may construct any works for rainwater harvesting or for recycling of used water other than in a river or stream and abstract and use the water so conserved or recycled for domestic purposes without a water use permit . It only stated that traditional irrigation diversion (1 l/s based on the proclamation definition) and hand dug wells shall not require water use and construction permit.
- Roles and responsibilities of Federal and regional states administration versus the basin water administration (Federal) has no clear boundary and become a challenge.



- The procedures of permit for waste water discharge in to the water bodies, construction along water body banks, dry waste dumping along the water bodies is indicated in the proclamation but the offence settlement is not stated.
- As a federal system, regional governments have the constitutional right to administer, protect, develop and put proclamations in line with the national proclamation, but MoWE is still resisting.

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