

# **Water Governance through Policies and Laws in the Nile basin countries: Prospects and Challenges**

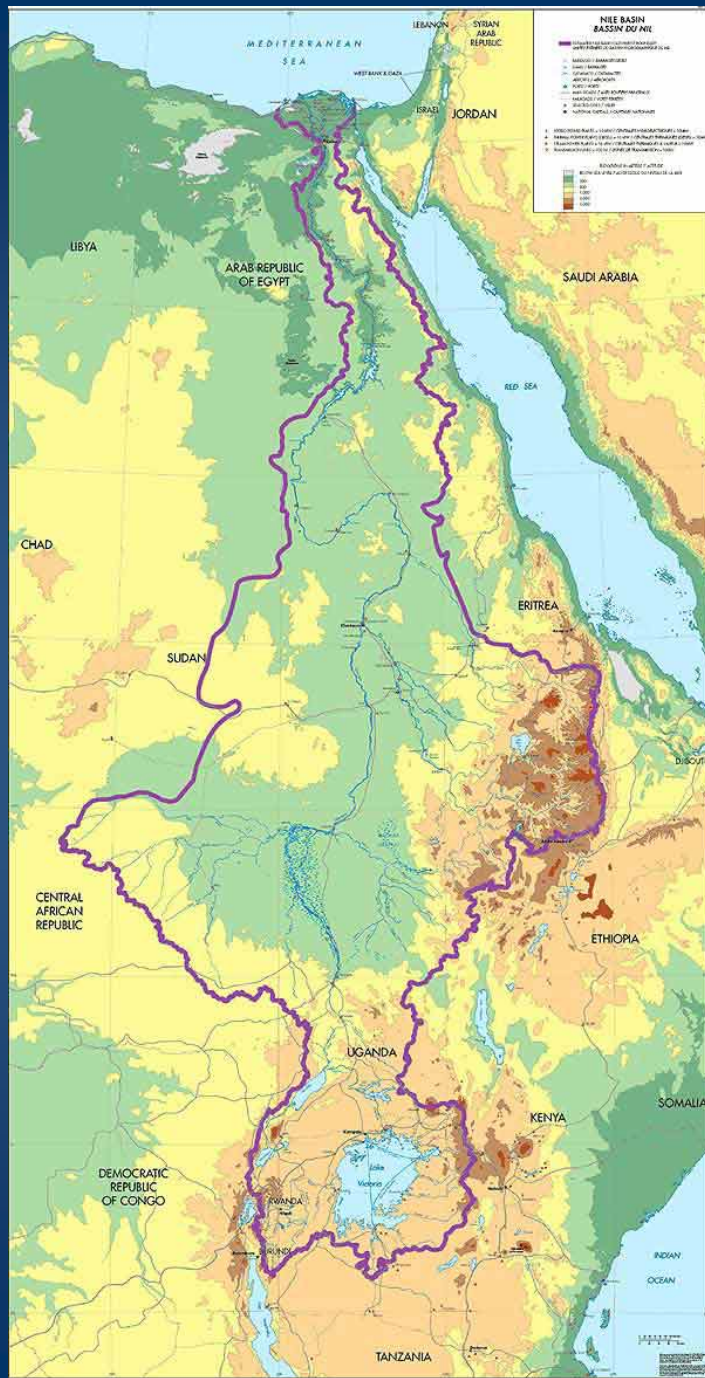
**By**

**Emmanuel Kasimbazi  
Senior Lecturer**

**Faculty of Law, Makerere University  
Also Managing Partner,  
Kasimbazi & Company**

# Introduction

- The word Nile is derived from the Semitic root Nahal meaning river valley, which later took the two forms of 'Neilos' in Greek and 'Nilus' in Latin
- It has an estimated length of over 6800 km and is one of the longest and greatest rivers in the world
- River Nile flows from south to north over 35 degrees of latitude with an area of about 3.1 million sq km, that is, about 10.3 per cent of the African continent spread over ten countries
- These are Burundi, Democratic Republic of Congo (DRC), Ethiopia, Eritrea, Egypt, Kenya, Rwanda, Tanzania, Sudan and Uganda



# Transboundary Issues of River Nile

- There is no framework Agreement (one is being negotiated)
- Agreements signed in the colonial period are being contested
- Equitable utilisation principle not well defined
- Countries are at different levels of policy and legal developments of the management of water resources

# **The need for water governance in the Nile basin**

- Water governance requires consideration of the political, economic, administrative, social processes and institutions by which governments, public authorities, communities and the private sector take decisions on how best to develop and manage water resources and service delivery
- To achieve effective water governance in the Nile Basin, there must be strong institutional setups and most importantly comprehensive national laws, policies, strategies and plans

# Review of the present Legal and Institutional Framework in the Nile Basin countries

- The Nile Basin Legal and Institutional was initially based on colonial Agreements and favoured lower riparian countries i.e. Egypt and the Sudan.
- It was until 1997 when the Nile basin countries realized that there was a need for a legal and institutional dialogue
- In 1999 they formed the Nile Basin Initiative (NBI)
- It was formed as the permanent institution with a development focus and agreement on core legal principles in the Nile Basin
- However at the national level each basin state has its own legal and institutional framework

# BURUNDI

- Burundi is a small, landlocked country which does not have major water resources.
- It is one of the upper most riparian countries of River Nile
- It does not have a comprehensive legislative framework that ensures water governance
- Its Constitution adopted in 1992 is silent on water management issues
- The leading legislation on Burundi's water resource management is the Decree Law No. 1/41 of 1992
- It has provisions that have implications for water governance
- The Ministry in charge of water resources and the provincial and local authorities are entrusted with the management of public domain water

# The Democratic Republic of Congo (DRC)

- DRC is the third largest country in Africa
- Like Burundi, DRC does not have a comprehensive legal and policy framework for water governance
- It has a general legal and policy framework that has implications for water governance
- Article 48 of its Constitution guarantees access to drinking water
- Article 54 prohibits polluting inland waters or maritime spaces
- It is a crime to discharge radioactive or other dangerous substances into inland waters or maritime spaces
- The Ministry of Environment, Nature Conservation, Water & Forests, is responsible for water resource management
- The war has affected development of legal frameworks in DRC



# EGYPT

- Egypt is a highly arid country and the lower most riparian country of the Nile basin
- The Nile is the only river in Egypt and provides 97 per cent of the water requirements
- The protection of water resources is one of the most critical environmental issues in Egypt
- As a major beneficiary of the Nile waters, it has specific policies and laws that deal with the Nile
- The major policy that deals with water resources management is the Water Policy Towards Year 2017
- The policy provides an evaluation of existing water resources, future demands by year 2017 and guidelines for water resources management.
- The Policy mainly focuses on demand management, resource development, and environmental protection

# EGYPT Con't

- Egypt's National Constitution has no major provisions dealing with water management.
- Law 48/ 1982 is its major law on the management of the Nile waters
- This law prohibits throwing in the water channels solid, liquid, or gaseous wastes
- It empowers the Ministry of Irrigation to issue licences on water issues
- Law No. 4 of 1994 has provisions that deal with the management of the water resources in Egypt
- It establishes the Environmental Affairs Agency whose functions include preparing draft laws and decrees on water
- The Ministry of Public Works and Water Resources is responsible for national water resources and can authorise use of water from the Nile
- Two ministries, Agriculture & Health, hold special responsibilities in the management of water

# ERITREA

- Eritrea is an arid/semi arid country situated in the Horn of Africa
- Its one of the upper riparian countries of the Nile Basin
- Nearly all rivers and streams in Eritrea are seasonal and have widely variable flows
- Eritrea also has policy and legislative framework for water resources management.
- Its Constitution (1997) has general provisions that deal with the Environment with implications for water governance
- The Policy for water management (2003) provides for integrated management and fair allocation of the available water resources
- The Water Law adopted in 2003 provides that water is public property controlled by the government.
- The Ministry of Land Water & Environment and the Water Resources Department are responsible for the management of water

# ETHIOPIA

- Ethiopia, just like Eritrea is located in sub-Saharan region, which is the drier part of Africa
- Its an upper most riparian country and one of the major contributors of the waters of the Nile.
- Ethiopia has several policies that are relevant in water governance
- The Water Resources Management Policy (1999) provides for water quality management and supply
- Environmental Policy (1997) provides for the Polluter Pays Principle and emphasizes the EIA process.
- The Health Policy (1993) provides for prevention of environmental pollution from hazardous chemical and industrial wastes
- Under the Constitution (1994) every Ethiopian is entitled within the limits of the country's resources to clean water
- Article 40(3) places the ownership of water resources within the public domain of the State

# ETHIOPIA Con't

- The Constitution empowers the Federal State to enact laws for utilisation of natural resources.
- The regional States have powers to administer natural resources within their respective regions in accordance with the federal laws
- The Water Resources Utilization Proclamation No.2 of 1994 is the main law that deals with water management
- It requires a person to get a permit if he or she wishes to use water resources
- The Ministry of Water Resources is responsible for water resources at the federal government level
- At the regional level, States have the responsibility for administration, development and protection of water resources in their respective regions.
- National Environment Protection Authority (NEPA) has the responsibilities of defining laws related to water quality standards and EIA

# KENYA

- It is one of the upper Nile riparian countries & shares Lake Victoria with Uganda and Tanzania.
- The Constitution of Kenya does not have direct environmental protection provisions.
- The major law dealing with water management in Kenya is the Water Act
- The Act vests the right over all surface and ground water in the State
- The overall power for the control of every body of water is exercised by the minister for water
- The Water Resources Management Authority (WRMA) is responsible among other things for the allocation of the water resources through a permit system
- The Act further recognizes the role of community groups, organized as water resources users associations, in the management of water resources
- The Act provides that the degree of purity of effluents in water must be controlled by the Water Apportionment Board

# RWANDA

- The Nile basin covers 67 per cent and delivers 90 per cent of its national water.
- Rwanda has recently developed a legislative & policy framework which is relevant for water governance
- Under the Constitution, every citizen has a right to safe, satisfying, and sustainable environment
- It prohibits any agreements authorizing the storing on Rwandan territory of toxic waste and other substances that may dangerously damage the environment.
- The New Organic Law (2005) provides for the Precautionary principle, the polluter-payer principle, and community participation.
- Under the law management of the water resources must not in any way use methods that could lead to natural disasters such as floods or drought
- The main institution responsible for environmental management in Rwanda is the Rwanda Environment Management Authority

# SUDAN

- Sudan is the largest country in Africa with a total area of about 2.5 million km<sup>2</sup>
- Sudan is the lower riparian country of the Nile basin.
- It has a policy & legal framework that is applicable to the management of the water resources of the Nile
- The Water Resources Management Policy (2000) has the overall objective of fulfilling water resources planning and management.
- Under the Constitution water bodies are public property and are governed by the state
- The Water Resources Act (1996) makes reference to stakeholders, research, pricing, licensing brick making, river transport vessels and water abstraction
- The Act further provides for the control of the quality of drinking water
- The Nile Pumps Control Act (1939) ensures equitable distribution of water among river users and environmental health



# SUDAN Con't

- Fresh Water Fisheries Act (1954) regulates fishing in Rivers; River Transport in the Nile
- Inland Waters Act (1950) deals with Navigation Regulations;
- Water Pollution Control Ordinance (1975) aims at preventing addition of wastes to rivers, canals, wells and water supply sources.
- The Water Hyacinth Act (1960) is designed to combat water hyacinth in Sudanese Rivers and water ways
- River Control Regulation Rules are meant for dams in Sudan, to ensure downstream rights, minimum acceptable flow and to avoid environmental degradation.
- The Ministry of Irrigation and Water Resources (MIWR) is the federal body in Sudan legally responsible for all water affairs
- The National Water Council of Sudan ensures planning for optimum water resources

# TANZANIA (TZ)

- TZ shares Lake Victoria and it is one of the major upper Riparian countries of the Nile Basin.
- TZ has policy and legal framework for the management of water resources
- The Water Resources Management Policy (2002) ensures the development of a comprehensive framework for water management
- In terms of River Nile, the policy has an aspect of trans-boundary waters which covers cooperation in the management of shared water resources
- Its Constitution (1997) does not contain a direct provision on environment and water
- The principal legislation on water management is the Water Utilization (Control and Regulation) Act
- The Act establishes the Central Water Board as an advisory organ in matters of to water pollution.
- Other institutions are the Ministry of Agriculture & Food Security and the Ministry of Energy & Minerals


# UGANDA

- The main hydrological feature of Uganda is the extensive interconnected system of the Equatorial lakes forming the upper part of the White Nile.
- The biggest territory of Uganda is situated within the Nile Basin.
- The main policy dealing with water management is the National Water Policy of 1999 – It promotes an integrated approach to water resources management.
- The National Environment Management Policy (1994) provides for sustainable mgmt & developm't of water resources in a coordinated and integrated manner
- The Constitution (1995) provides for environmental protection and conservation
- It imposes a duty on the government to protect important natural resources including water on behalf of the people of Uganda

# UGANDA Con't

- The National Environment Act establishes NEMA as the principal agency responsible for the management of the environment
- The Act makes provisions for management measures of the environment including EIA
- The Water Act is the main Act dealing with Water resources management in Uganda.
- Its main objective is to promote the rational management and use of waters in Uganda.
- The National (Wetlands, Riverbanks and Lakeshores Management) Regulations (2000) are specific regulations made for the management of Lakes and Rivers.
- The Ministry of Water and Environment is the ministry responsible for water issues in Uganda.
- Other institutions include the DWD, NWSC

# Threats for water governance in the Nile basin through policies and Legislation

- Different levels of economic, social and political developments in the basin states
  - Lack a strong institutional and legal framework for the Nile basin
  - Failure to appreciate international water law principles
  - Low level of cooperation among the basin countries
  - Limited political will towards equitable utilisation of water resources
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# Conclusion and Recommendations

- The Nile basin countries are at different levels of development of legal and policy framework for water resources management
- The development has depended on political stability and the interest in the use of water resources of the Nile
- There is a need to start a dialogues of all countries for developing new opportunities for realizing effective water governance
- There is need to develop and harmonize national water laws and policies to support existing efforts towards water governance