

Policy and Legal Framework for Water Resources Management in Ethiopia

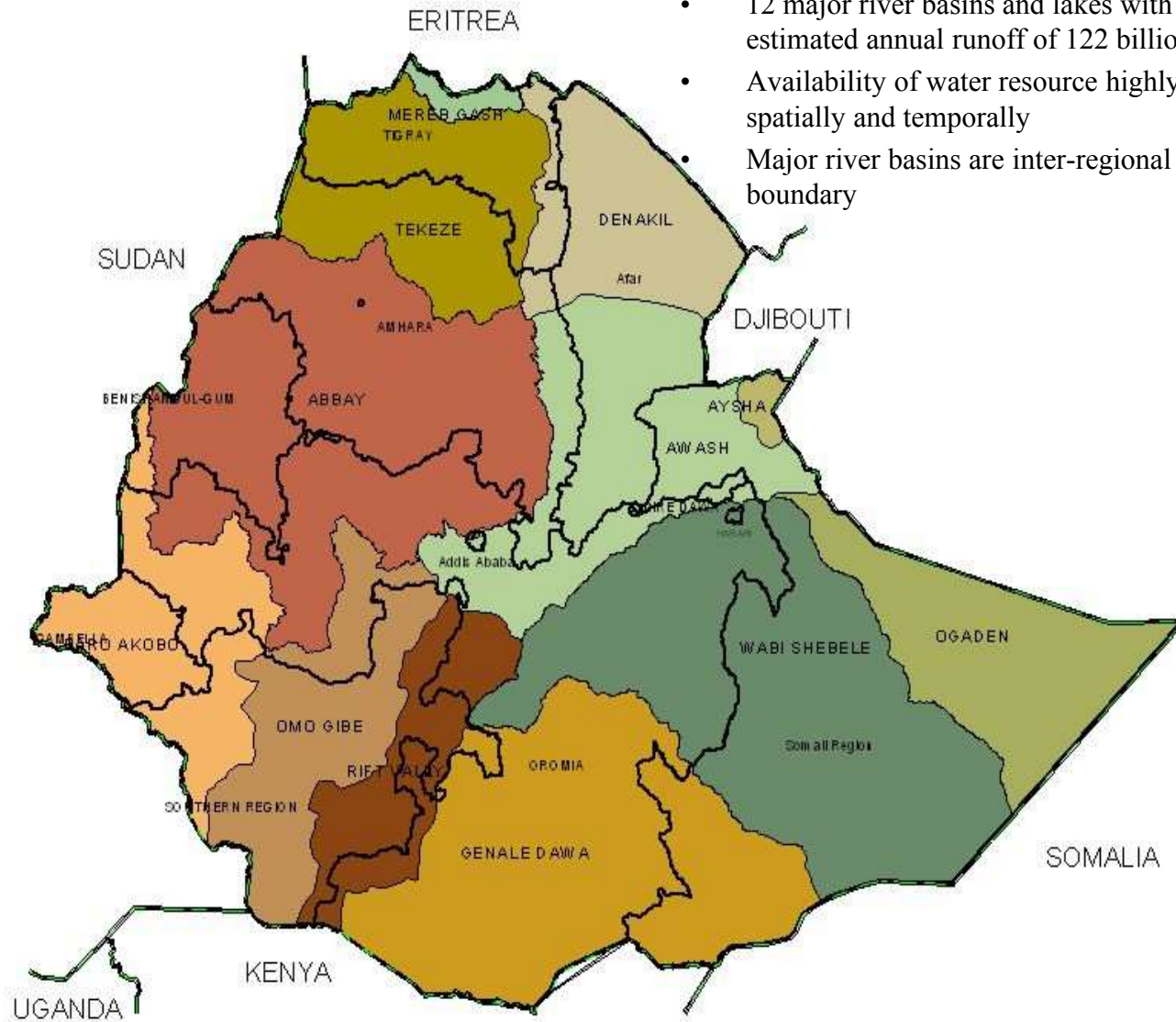
IMERU TAMRAT

International Conference on Water
Management in Federal and Federal Type
Countries

9-11 July, 2008

Zaragoza, Spain

Basin Map



- Area-approx 1.13 mill km²
- Population:79.2 million
- 12 major river basins and lakes with a total estimated annual runoff of 122 billion m³
- Availability of water resource highly variable spatially and temporally
- Major river basins are inter-regional or trans-boundary

Legend

| | |
|--|------------------------|
| | Region Boundary |
| | International Boundary |
| | ABBAY |
| | AWASH |
| | AYSHA |
| | BARO AKO BO |
| | DENAKIL |
| | GENALE DAWA |
| | MEREB GASH |
| | OGADEN |
| | OMO GIBE |
| | RIFT VALLEY |
| | TEKEZE |
| | WABI SHEBELE |

Surface Water Resources of Major River Basins

| No | River Basin | Catchment Area (km ²) | Annual runoff (bm ³) |
|----|------------------|-----------------------------------|----------------------------------|
| 1 | Abbay | 199, 912 | 52.6 |
| 2 | Awash | 112, 700 | 4.6 |
| 3 | Baro-Akobo | 74, 100 | 23.6 |
| 4 | Genale Dawa | 171, 050 | 5.8 |
| 5 | Mereb | 5, 700 | 0.26 |
| 6 | Omo-Ghibe | 78, 200 | 17.9 |
| 7 | Rift ValleyLakes | 52, 740 | 5.6 |
| 8 | Tekeze | 89, 000 | 7.63 |
| 9 | Wabe Shebelle | 200, 214 | 3.15 |
| 10 | Afar-Danakil | 74, 000 | 0.86 |
| 11 | Ogaden | 77, 100 | 0 |
| 12 | Aysha | 2, 200 | 0 |
| | Total | 1, 136, 816 | 122 00 |

Source: Ministry of Water Resources (2002)

Federal Administrative Structure

- 1995 Constitution provides that Ethiopia is a federal polity comprising of nine states constituting the federation
- 2 independent city administrations accountable to the Federal Government
- Federal and Regional states have their respective legislative, executive and judicial powers
- Highest body at the Federal level is the HPR and State Councils in Regional states
- Powers not given expressly to the Fed government or held concurrently with the Regional states are reserved to the states
- Regional states have power to enact their own constitutions and other laws, policies strategies and plans
- Local government entities consist of Regional States, Zonal and Woreda (district) governments
- Decentralized system expected to facilitate management of natural resources
- Devolution of power designed to ensure participation of stakeholder in decision-making up to the village and community levels as prime movers of development

2. Legal Basis for WRM

The Federal Constitution

- Supreme law of Ethiopia
- Provides for public ownership of land and other natural resources
- Provides mandates of Federal Government and Regional States with respect to WRM
- Fed gov't formulate and implement policies, strategies and plans on overall economic, social and development matters; Regions formulate and execute same for their respective regions

Cont'd...

- Federal government mandate:
- To determine and administer the utilization of the waters of rivers and lakes linking two or more states or crossing the boundaries of the national territorial jurisdiction
- to enact laws for the utilization and conservation of land and other natural resources
- Mandate of Regional States:
- -to administer land and other natural resources in accordance with Federal laws
- Fed gov't may delegate its mandates to regional states

Cont'd...

- Fed government given the predominant role over policy and law making, planning, management, and administration of water resources under the constitution unless delegated to Regions
- Regions have jurisdiction in administering water resources in accordance with Fed law.
- Regions have mandates to determine the use and administration of water resources that do not 'link' regional states? leads to fragmentation.

Federal Water Resources Management Policy

Relevant provisions incorporated in the policy

- Issued by MoWR in 1999
- Integrated water resources management
- Adoption of a basin-wide approach
- Articulates the need for establishment of RBOs
- Coordination and Linkages
- Decentralized management
- Institutional Stability and Continuity
- Stakeholder participation

3. Legal Framework

Ethiopian WRM Proclamation 197/2000

- Currently the basic legal instrument governing WRM and administration in the country
- Provides clear set of provision for WRM through a permit system.
- Proclamation gives mandates to “Supervising Authority” as the MoWR for “water resources at the central level”-implications?
- As the Proc now stands, extensive mandates to MoWR but can delegate such mandates to an appropriate body

Cont'd...

- Lack of Integrated water resources management approach
- No provisions addressing inter-sectoral coordination and linkages
- Does not clearly address the adoption of a River Basin Approach
- Centralization vs Decentralization not clearly addressed

WRM Regulations No. 115/2005

- Issued by CoM in 2005
- Further elaboration of WRM Proclamation on issuance and administration of permits for different water uses, construction works and waste discharge
- Set schedules of fees for permits
- Water use charges to be determined in subsequent regulation
- Does not address delegation of powers or establishment of RBOs
- The mandate to administer permits and collect water charges given to MoWR or an organ delegated by law
- Issue-would the MoWR be able to administer permits unless such mandate is delegated to Regions or RBOs

4. Establishment of River Basin Organizations

- Approach adopted in Ethiopia for WRM is to decentralize water resources planning and management functions at the basin level.
- RBOs to be established by law on a phase-by-phase basis
- Most of the mandates currently held by MoWR at the Federal level delegated to RBOs
- Basically, in line with the WRM policy although not clearly articulated in previous laws

River Basin Councils and Authorities Proclamation (Proclamation No.534/2007)

- Proclamation envisaged as a framework legislation
- RBOs for specific river basins to be established by subsequent subsidiary legislation
- Establishment of RBOs on a phase-by-phase basis
- RBOs to have a two-tier organizational set-up: Basin High Councils (BHCs) and Basin Authority
- BHC-highest policy and strategic decision-making body
- Basin Authority- administrative and technical arm of BHC

Basin High Council

- Composition of the BHC and its accountability to be determined by subsequent regulation
- Need to ensure adequate representation both from the Federal and Regional levels
- Mandates of BHC- policy guidance and planning oversight; direct the preparation of basin plans; propose water charges to government; prioritize construction of major water works; decide on water allocation rules and principles; manage water disputes between regional states in the basin; provide information and advisory support to body negotiating on transboundary basins
- BHC given mandates to deliberate on major issues within the basin
- To effectively make decisions on such issues it needs adequate technical support
- Given the mandate to resolve conflicts among the regional states but not between sectoral Ministries or bureaus at the Federal and Regional levels or between basin authority and Regional administrations where likely tensions may arise

Basin Authority

- Dual accountability- to the BHC and MoWR
- Mandates: initiate policy measures for implementation of IWRM; prepare and submit basin plans to the BHC; issue water use and construction permits *without prejudice to power given by law to Regional States*; establish information system and disseminate same; develop river basin model; give advise and support to BHC and MoWR on dispute resolution; collect water charges; provide necessary information for transboundary negotiations

Cont'd...

- Most of the mandates under the Federal MoWR now given to the Basin Authority
- Issue is: who would best do a specific function better- the RBO or existing agencies at the federal or regional levels
- Needs to be seen in light of capacity; effective participation; as far as possible not taking over functions that may be done effectively by existing institutions
- Clearly identifying mandates of the RBO vis-a vis MoWR and Regions Need for strong inter-sectoral coordination at the Federal and Regional levels
- Clear Linkage between MoWR; Basin Authority and Regional States
- Financial sustainability of Basin Authority is questionable.

Establishment of Abbay (Blue Nile) Basin RBO

- Regulation approved by the CoM but not yet issued in the official gazette
- Does not add much to what is provided in the Proclamation except for providing the establishment of the Abbay Basin High Council and Authority
- Powers and responsibilities of the BHC and Authority same as in the Proclamation
- Members of the BHC to be determined by the government upon recommendations of the MoWR-implications?
- Regulation does not fill gaps not addressed in the Proclamation

Transboundary Issues

- Abbay basin part of the Nile basin, therefore transboundary in nature
- Mandate is that of MoWR
- Currently the Nile Basin Initiative (NBI) has been established as a transitional cooperative forum
- SVP- the whole basin; SAP- sub-basin
- SAP intended to identify water resources projects within sub-basins
- ENSAP- member states Ethiopia, Sudan and Egypt; ENTRO has been established; HQ in AA
- Many projects currently identified for implementation
- Ethiopia projects mainly drawn from the MPs
- Main issue: what would be the role of the established Abbay Basin Organisation?

Concluding Remarks

Following issues need to be considered:

- Distinction b/n Fed and Region Waters-not appropriate for IWRM
- Law Making-Role of Regions?
- Approach currently is to decentralize WRM at the basin level through delegation of Federal functions to RBOs
- Challenges that might face RBOs:
 - Ensuring active participation in decision-making of regional states and other stakeholders at both federal and regional levels-otherwise may lead to tensions
 - Intersectoral coordination at both the Federal and Regional levels
 - Capacity of RBOs to effectively discharge their mandates needs strong support from both the Federal and Regional States
 - Potential conflicts may arise between RBOs, MoWR and Regions regarding mandates
 - Potential conflicts among Regional States with respect to prioritization of water resources projects and water allocation
 - Financial stability and independence of RBOs, at least in the short term is questionable leading to their dependence on the Federal government