

Paper to be presented at the 6th World General Assembly
The Martinique (French Antilles)
24-28 January 2004

Water sector Reforms in Kenya

i) Status and the Benefits of the Water sector reforms in Kenya

The Water Act 2002 that was prepared with a wide consultation with stakeholders provides the required management tool to implement the Water Policy.

The Water Act 2002 as an umbrella Act for the management of water resources and the provision of the water services was drafted and enacted with this goal:

“That the country’s water resources are sustainably managed and access to adequate water supply and sewerage by the population is assured”.

The problems facing our water resources today are climate variability and environmental degradation.

To this effect it has been observed that both climate variability and environmental degradation has resulted into:-

- i) Catchments degradation,
- ii) Drying up of Rivers,
- iii) Receding of lake levels,
- iv) Heavy siltation in our dams and pans meant for both hydropower generation and water supplies,
- v) Degradation of our water qualities,
- vi) Increased water use conflicts due to competition of the little available water resources,
- vii) Damaged roads, railway lines, bridges, buildings, farmland, water intakes and people displaced due flash floods,

In addition the problems facing the provision of the Water Services today are:

- i) Lack of adequate and continued dwindling financial resources in the water sector,

- ii) Dilapidated infrastructure and low revenue collection to augment and maintain the existing water supplies and to extend the water coverage,
- iii) Increasing number of people unserved in urban and rural areas and,
- iv) Absence of autonomous institutions to manage water supply and sewerage services in our cities and most urban areas.

In order to address the above problems the Ministry of Water Resources Management and Development has adopted the national water policy, put in place a new water legislation that is the Water Act 2002 and formulated two water strategies for Water Supply and Sewerage Services and for the Management of the Water Resources with clear provisions to tackle these current problems.

The Water Act 2002 therefore provides for:

- the separation of roles policy formulation that remains with the mainstream Ministry of Water resources Management and Development, while the regulation and service provision devolved to autonomous water boards. Further the water act 2002 provides for the separation of the management of Water Resources from the Water Supply and Sewerage Services. This will be achieved through the establishment and operationalisation of:
 - i) The Water Resources Management Authority to manage, protect and conserve our water resources has been established. The Authority will have regional offices at the catchments level for decentralised decision making for quick response to water resources management problems and to speed the water allocation process along the river basin equitably.
 - ii) The Water Services Regulatory Board as a Regulator with Water Services Boards as licensees, responsible for the efficient and economical provision of water services by engaging an agent called Water Service Provider to give water services within its area of

jurisdiction. The Regulatory Board and one key Water services board namely Nairobi Water Services Board has been established.

The Establishment of the Water Service Boards, with delineated areas of supply, is assure way of giving water services to all parts of the country as at all times in every part of the country there is a capable Water Service provider as agent of the Service Board to provide water services. The Water Services Providers shall be Autonomous body to ensure the ring fencing of the management. Such agents are the Water companies formed by the Local Authorities as Public Private companies or Water User Associations formed by the communities or Private companies or as a fall back the National Water Conservation and Pipeline Corporation in cases where a competent Water Services Provider are not available or for the production of bulk water supply through state schemes.

In addition the Act provides:

- for the community participation in both the management of the resources and development by allowing for the establishment of Water Resources Users Associations that will serve as fora for conflict resolution as well as co-operative management of the resource in catchment areas;
- the establishment of a Water Services Trust Fund to be managed by Trustees to further help for the extension of water services to all poor communities;
- the establishment of the Water Appeals Board as an independent body to resolve disputes between holders of water rights and the others.

However it should be understood that the Water sector Reforms as provided by the water Act 2002 does not shut the current water undertakers from acting as the agent of the Water Services Board as Water Services Providers, as the reforms only prepares these institutions to become efficient and effective in the provision of water services.

Management of Water Catchment Areas as provided by the Water Act 2002

The water Act 2002 provides for Integrated Water Resources Management along the River Basin that is the best practice world wide and in accordance with Dublin Principles.

Section 14 of the Water Act 2002 provides for the management of water resources and defined areas from which rainwater flows into a watercourse to be a catchment area.

Kenya is divided into five Drainage Basins based on the Hydrological boundaries, which are the major catchment areas namely:

- i) Lake Victoria Drainage Basin
- ii) Rift Valley Drainage Basin
- iii) Athi River Drainage Basin
- iv) Tana River Drainage Basin
- v) Ewaso Ng'iro North Drainage Basin

The management of water resources is vested in the Water Resources Management Authority with regional Offices along the River Basins under the advisory of the Catchment Area Advisory Committee as provided by section 16 of the Water act 2002.

Functions of the Catchment Area Advisory Committee (CAAC), Section 16

The Catchment Area Advisory Committee shall in relation to the catchment areas for which it is appointed, advise the Authority at the regional level on the followings:

- a) Water resources conservation, use and apportionment;
- b) The grant, adjustment, cancellation or variation of any water permits and
- c) Any matter pertinent to the proper management of water resources.

The members of the CAACs shall be chosen from among:

- a) Rep. Of line Ministries or public bodies responsible for matters relating to the resources in the catchment areas that is the:
- Ministry of Water resources Management and development as a lead agency
 - Ministry of Environment, Natural resources and Tourism as the custodian and the conservator of indigenous forest that forms part of the water catchment areas,
 - Ministry of Agriculture as in line with land use
 - Ministry of Lands and settlement in line with Land allocation and physical planning
 - Ministry of Local Authority as custodian of trust lands that also form part of water catchment areas
 - Ministry of Energy inline with hydropower production
 - Rep. of farmers and pastoralists
 - Rep. Business Community.

Finally the Water act 2002 provides for the adoption of Water Strategies that further details the procedures and institutional arrangements for the realisation of the objectives of the Water Act.