

3rd UNECWAS Seminar
Water Serves in Development and Society

Water in Development Policy, Politics and Reform
Kenyan Experiences

By Prof Ezekiel Nyangeri Nyanchaga
Department of Civil and Construction Engineering
University of Nairobi, Kenya

Tampere University of Technology
21st August 2014

Presentation Coverage

1.0 Water Sector Development and Reforms

1.1 After independence

1.2 Interest of Development Agencies

1.3 Post Independence

2.0 The Water Sector Reforms

2.1 Bottlenecks in the Water Sector (Under CAP 372)

2.2 Preparation Towards Water Reforms

2.3 Aims of the Water Sector Reforms

2.4 Role of Development Partners during reforms

2.5 Achievements of Water Sector Reforms

2.6 Kenya Vision 2030

2.7 Challenges of Water Sector Reforms

3.0 New (2nd) Water Sector Reforms

3.1 The New Constitution (2010)

3.2 Achievements of the Reforms since COK

3.3 New Challenges in the Water Reforms

4.0 Conclusions and Recommendations

1.0 Water Sector Development and Reforms

1.1 After Independence

- Immediately after independence in 1963, the new government took a firm grip of the helm using five-year development plans.
- The government faced a serious backlog of urban services for Africans.
- In terms of water policy, government confirmed the colonial policy during the first years of independence.
- The first development plan from 1964-70 was mainly a carry-over from the colonial period.
- Water development was declared to be important for the economy, and priority was given to schemes that were expected to be financially self-sustaining, e.g. municipalities.

1.1 After Independence

- The policy of cost recovery was continued and all supplies had to be assessed from an economic viability point of view:
 - “Unless there is a very good reason government will not accept a water scheme that is financially or technically unsound and is likely to be a continuing liability on the country’s resources”.
- The doctrinal Sessional Paper No 10 of 1965 on African Socialism and its application to planning in Kenya
 - Directed Government policy towards priority concerns for Africans,
 - Regarded water as a public service alongside such services as transport, telecommunications and electricity, not as a social service to be subsidised.

1.1 After Independence

- Around 1970, government policy shifted and water development became a prioritised area for intervention.
 - Urban areas had almost universal service coverage with a standard that was deemed high in comparison to international standards.
 - Rural areas, services were much less developed.
- Development Plan 1970-74.
 - Objective “bringing acceptable water supplies to all the rural population before 2000”
 - Cost recovery not mentioned.
 - Municipalities should consider increased water tariffs - to secure revenues for investment needs.
- November 1974, a fully-fledged Ministry in Charge of Water affairs was created.

1.1 After Independence

Development Plan 1974-78

- Universal access to 'safe and adequate' water by the year 2000 had become a goal in itself.
- The government's policy on cost recovery was re-affirmed.
- The general tariff and metering policy was laid down stating that, "everybody must pay for water services".
- The revenues for the rural water supply schemes would cover "direct operations and maintenance costs".

1.2 Interest of Development Agencies

By mid 1970s, donor interest divided itself into four categories and the response to selection of the water supply technology and use.

- **Category 1:** Supported development of engineered water schemes.
 - ✓ Construction of more schemes was the major objective of assistance.
- **Category 2:** Saw water as an acute and urgent need.
 - ✓ Worried about a tariff system that would cut off a large share of the potential customers.
- **Category 3:** Advocated for appropriate technology low cost project.
 - ✓ Only willing to support such projects.
- **Category 4:** Manpower development and good public administration rather than construction of schemes.
 - ✓ Identify a sound policy and administer it properly.

1.3 Post Independence

- By 1979 - government's goal of "water for all by the year 2000" was not going to be met.
- Reformulated the Development Plan for 1979-83 goal to read "to have an adequate water supply available to the entire population soon after the year 2000".
- Water - stated to be a social service to be provided by the government along with education and health services, - under 'Basic Needs approach'.
 - ✓ Cost recovery from users was not prioritised.
- In 1979, the First National Water Master Plan was developed.

1.3 Post Independence

- By late 1970s, development agencies had realized that the ministry could not continue with business as usual.
- The ministry agreed with their observation and as a result a number of studies were commissioned.
 - The water use study of 1983 - the MoWD should be divested of operation and maintenance responsibilities.
 - The Operation and Maintenance study of 1983 - made strong representations in favour of decentralization.

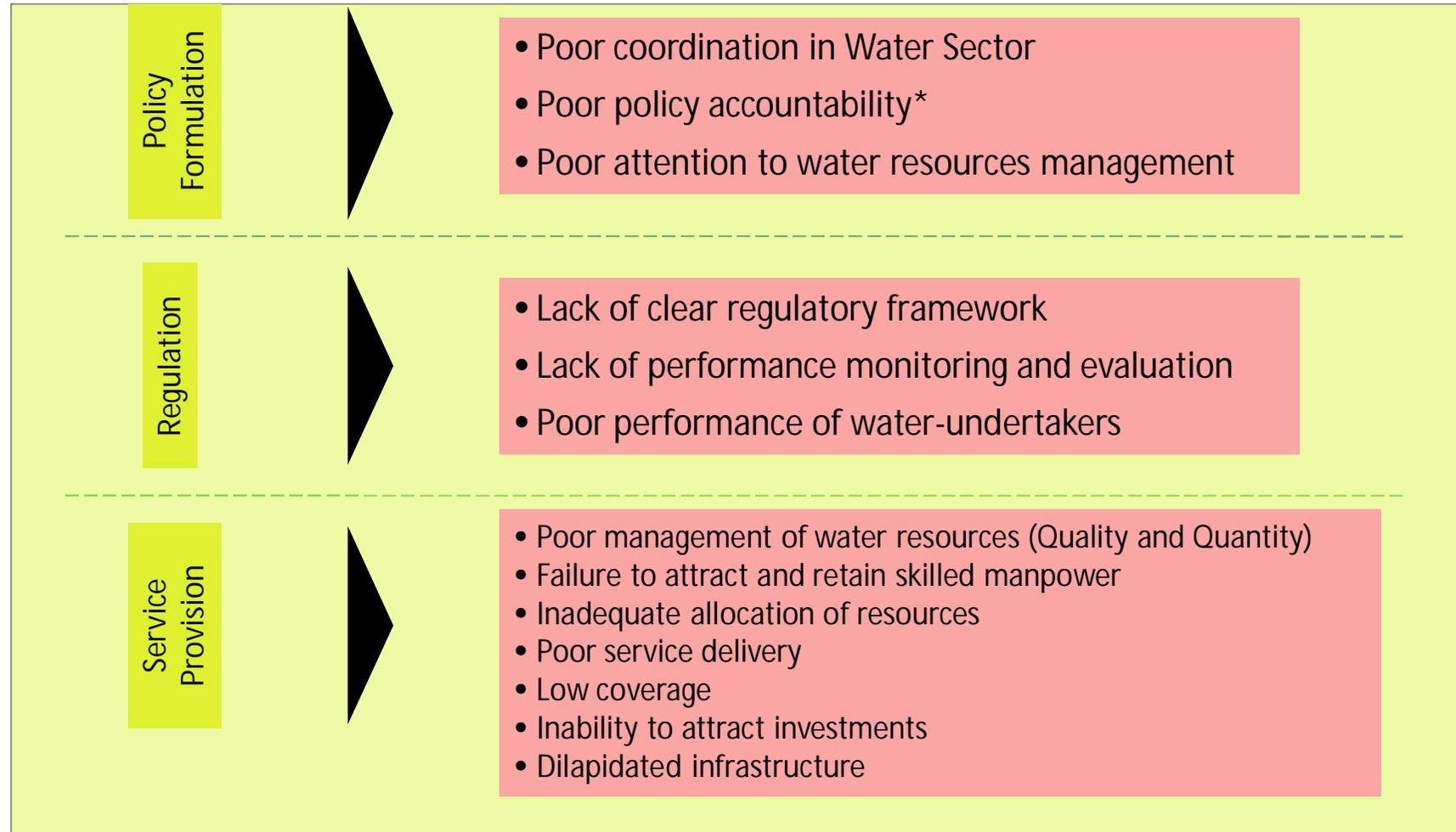
1.3 Post Independence

These reports called for reforms revolving around the initiation of changes in the management of schemes with a view to:

- MoWD gain effective control over its schemes;
- Decentralizing management, operation and maintenance to appropriate levels for rapid and effective response to scheme specific happenings;
- Increasing the level of consumer participation and responsibility in the management;
- Increasing the level of equity in the social distribution of scheme waters; and
- Generating resources needed for operation and maintenance from the consumer.

2.0 The Water Sector Reforms

2.1 Bottlenecks in the Water Sector (Under CAP 372)



2.2 Preparation Towards Water Reforms

The water use study and Operation and Maintenance study reports warned that:

- without these reforms the water sector shall increasingly find it difficult to operate and maintain the schemes; and
- generate the resources required for the much needed expansion of its investments to reach the majority of population without access.

2.2 Preparation Towards Water Reforms

- In 1992, the Ministry of Water Development released two important documents that continued to guide the sector up to the end of the decade:
 - Delineation Study: Provided a defined and improved delineation of roles; functions and responsibilities of the principal actors in the sector, with special focus on those roles, functions and responsibilities which best suited the Ministry.
 - The 2nd National Water Master Plan: Set out long-term plans for the much-needed reforms in the management and development of the water sector. Most important recommendation - Ministry should develop a water policy.
- Between 1995 and 1999, the ministry was involved in a policy development process for the sector.

2.2 Preparation Towards Water Reforms

- The policy was published as Sessional Paper No. 1 of 1999 under the title “National Policy on Water Resources Management and Development” with the following key policy objectives
 - Separation of roles (water resources and services), and
 - *Handover* to local authorities and communities.
- The policy indicated that Cap 372 of the Water Act (1972), needed to be revised.
- A new act known as Water Act 2002 was enacted.

2.3 Aims of the Water Sector Reforms

The water sector reform was anchored on the 1999 Water Policy and the Water Act 2002.

Previous approaches had failed to achieve water sector objectives.

Hence, reforms were set to:

- Improve management of Kenya's water resources and provision of water and sewerage services to the satisfaction of the consumers.
- Improve the working of the sector to ensure objectives such as growing demand for services are adequately met.
- Attract more professionals to the sector.
- Attract investments for improved service delivery.
- Modernize the sector to conform with emerging challenges such as climate change, international protocols, increased water use conflicts, rapid urbanization and the challenges of low income areas.

2.4 Role of Development Partners during reforms

- The role of development partners was key:
 - They provided ideas (“international best practice”) of what ailed the sector and how it could be cured
 - They funded many of the reforms activities (workshops etc)
 - They drive decision making by a combination of carrots and sticks (withholding funding, promising funding if reforms were implemented etc)
 - But they too believed in and championed *legal reforms* before all else.

2.5 Achievements of Water Sector Reforms

- Comprehensive sector framework available with National Policy, Water Supply and Sanitation Programmes, National Strategies for all sub-sectors, concept for contribution to sanitation, implementation concepts.
- Regular use of dialogue platforms like Water Sector Working Group, cooperation with Water Sector Technical Group, Annual Water Sector Conference.
- The institutional design of the reforms and most of the subsidiary legislation and the major new organizations were inaugurated in 2004-2005.
- 2011-2012 - access to safe drinking water: National 51%; Urban 60% and Rural 45%.
- June 2011: 65 Urban WSPs and 35 Rural WSPs.

2.6 Kenya Vision 2030

- The Kenya Vision 2030 was prepared in 2007 as the country's new development blueprint.
 - Water is defined as an essential resource to support the development activities planned under Vision 2030.
- National Water Master Plan 2030
 - Assess and evaluate the availability and vulnerability of country's water resources up to around 2050 taking climate change into consideration.
 - Produced to formulate the National Water Master Plan towards the year 2030 for sustainable water resources development and management.

2.7 Challenges of Water Sector Reforms

- Key constraints in the implementation occasioned by:
 - Complexity of the reforms
 - Requirements for extensive research and analysis
 - Internal and external resistance to change
 - The need for extensive consultative and educative processes
 - Clustering of WSPs into viable entities.
 - Major governance challenges at all levels
 - Lack of adequate financial resources for infrastructure rehabilitation and expansion
 - Lack of comprehensive sector M&E framework resulting in poor data collection and management

3.0 New (2nd) Water Sector Reforms

3.1 The New Constitution (2010)

- Responsibility for provision of safe and clean water in adequate quantities is placed on the National and County governments.
- Section 43(1)(d) provides that every person has a RIGHT to clean and safe water in adequate quantities:
 - Sufficient water
 - Safe water
 - Acceptable water
 - Physically accessible water
 - Affordable water

3.1 The New Constitution (2010)

- The Constitution of 2010 has moved the goal posts:
 - water services have become a county government function, thus there is need for:
 - ✓ A new policy,
 - ✓ A new law, and
 - ✓ New institutions
- In 2012/13, the MWI prepared the following before the new government outlined its new ministries
 - draft Water policies (WRM Policy, Water Supply and Sanitation Policy and Irrigation and drainage and Water Storage Policy)
 - a Water Bill 2012/13.

3.2 New Challenges in the Water Reforms

Implication on management of land and water resources

National Government

1. Management of all Water Resources
2. Development of water resources & implementation of National Water Policy

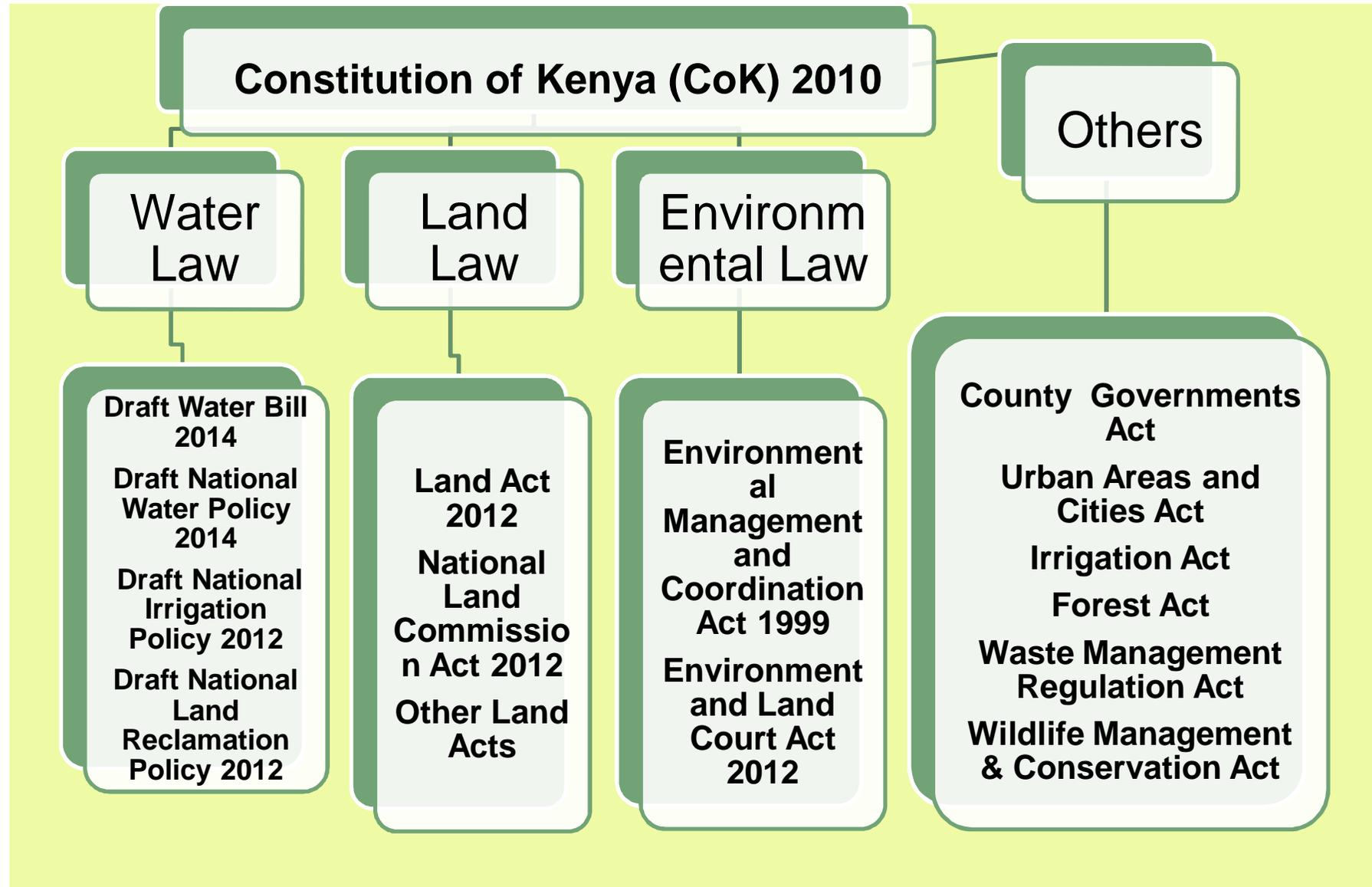
County Government

1. Management of Public Land including Rivers, Lakes & water bodies defined by an Act of Parliament
2. **Provision of water & sanitation services**
3. Environmental conservation

Community

1. Management of Community Land unless community is not registered
2. By extension management of ground or surface water on community land

Harmonization of the Regulatory Framework



Synergizing Institutional Frameworks

The following sectors have a WRM mandate:

1. Ministry of Water and Irrigation
2. Ministry of Agriculture
3. Ministry of Environment & mineral resources
4. Ministry of Fisheries Development
5. Ministry of Forestry & Wildlife
6. Ministry of Lands
7. Ministry of Livestock Development
8. Ministry of Public Health & Sanitation
9. Ministry of Local Government

Challenge:

Overlapping mandates and in some cases conflicting laws relating to some aspects of WRM

4.0 Conclusions and Recommendations

4.1 Conclusions

- Historical trends clearly indicates that past measures and policies have not adequately addressed the problems in water supply and sanitation sector.
- It is evident that there has been lack of clear allocation of responsibilities, poor coordination and lack of adequate logistical and institutional capacity for effective service delivery.

4.2 Recommendations

- To be able to contribute significantly to the future, the water sector needs to focus more on the Inter-ministerial coordination/cooperation aimed at the harmonization of water policies and regulatory framework with other related sectors.
- A re-examination of the past to establish on how to protect the important gains made during the water sector reforms.
- Establish sector M&E framework for adequate reporting and knowledge management

Thanks for the kind attention