

## Water sector reform in Kenya: First experiences are positive

### Interview with Engineer Mahboub Maalim, Permanent Secretary of the Kenyan Ministry of Water and Irrigation

by Susanne Wymann von Dach, InfoResources, Berne, Autumn 2007

#### Historical background

*InfoResources (IR): The process of reforming the water sector in Kenya started ten years ago, in 1997. Can you briefly outline the historical background of water management challenges in Kenya in the recent past?*

Mahboub Maalim: The main objective of the Ministry of Water and Irrigation in Kenya is to achieve positive developments by means of policy instruments that are adapted to the current challenges, and thus differ from previous approaches. During colonial times all resources were at the free disposal of the colonial authorities. When Kenya became independent, we had the impression that now all the resources should also be free available to the Kenyan people. Accordingly, the first policy after independence – the Sessional Paper No. 10 of 1965 – centred on *African Socialism and its Applicability to Planning in Kenya*. It mentioned three areas of focus: Elimination of illiteracy, diseases and poverty. Today we still talk about the same important issues. But the way to achieve the goals was different at that time. The government was perceived as the main player to manage water resources, assuming responsibility both for financing the water sector and for providing all services. I remember that when I was at primary school, a Minister declared that there would be piped water in every Kenyan household by the year 2000. At that time the year 2000 was very far away, but 2000 came and we still did not have water in every household. The process to develop a new water policy started in 1997, as people slowly realised that we needed to change our way of thinking.

*IR: Who pronounced the need to reform the water sector? Was it a top-down decision or rather a concern expressed at the grass-roots level?*

Mahboub Maalim: First of all, the Ministry realised that it had failed in providing water services properly and that the targets it had set over a long period of time were never met. The function of the water service was not very efficient, nor was it cost-effective. In fact, it proved to be very expensive, draining the public budget, whilst the outcome was not substantial. But also reports from districts and provinces deplored the bad situation. And finally, the need to reform the water sector was voiced by the population throughout the country. One sensed the dissatisfaction when travelling through the country and meeting people in gatherings.

#### The process from formulating to implementing

*IR: And then, in 1997, the Ministry of Water and Irrigation launched the process of outlining a new water policy?*

Mahboub Maalim: Yes, and in 1999 the National Water Policy was finalised. This policy marked a major shift in the distribution of roles. The role of the government changed from direct service provision to regulatory and enabling functions. The Policy indicated several key issues for achieving integrated water resources management and development.

*IR: What are the most important issues pronounced in the National Water Policy?*

Mahboub Maalim: The Policy indicates the main pathway. It emphasises the need to encourage community participation and to systematically integrate gender issues. It addresses the financial base of the water sector and recognises that there must be a sustainable water delivery mechanism based

on appropriate tariffs. This will create an important base of financial resources that can also be invested in further development of the water sector. For this reason the “user-and-polluter-pays” principle was introduced in the Policy. Water is recognised not only as an economic, but also as a social good, which means that the new policy recognises that there are people who are not able to pay for water services. Furthermore, the policy makes a distinction between the water service delivery function and the water resources management function. For a very long time people did not reflect on where their water was coming from, nor on whether they should invest in long-term water provision and/or better manage the sources of their water. Therefore, prior to the National Water Policy, key aspects such as forestry, soil conservation, improved land use and water catchment management, water abstraction and diversion etc. were not addressed.

Additionally, the policy takes into account that water service delivery and water resources management systems should be coordinated according to catchment boundaries rather than administrative boundaries. This has been applied as a standard. Consequently, the Water Policy foresees decentralised, regional Water Boards. An example is the Tana catchment, which is managed by the Tana Water Board.

Formulation of the National Water Policy was followed by an intensive long-term consultation process that involved various stakeholders at different levels, in order to develop the Water Act and thus operationalise the National Water Policy.

*IR: Can you give us an insight into the process of stakeholder consultation?*

Mahboub Maalim: I was not yet Permanent Secretary of the Water Ministry at that time, but I have read the documentation. Normally, the formulation of bills involving stakeholder consultation is a time-intensive, long-term process. The technical employees represent the spearhead of the process. They identify relevant government institutions (mainly other ministries) that need to be included in the consultations. In our case, these were the Ministries of Environment and Natural resources, of Land, of Agriculture, of Regional Development, and of Cooperative Development, as well as other specialised government programmes. Together, they put in place a broad, multi-sectoral governmental consultative team which then defined the general principles and the main aspects of the bill. After this the circle of participants was broadened, and workshops at the national level were more far-reaching. Finally, the technical employees disseminated the messages in the provinces. Consultation workshops were held in all provinces and more than once. Workshops at the district level were organised with what was at that time called “water user associations”. Many consultations took place between 2000 and 2002.

*IR: Were there any difficulties in bringing together all stakeholders? How did the different stakeholders perceive the process?*

Mahboub Maalim: Their perception was very positive. People realised that a change in water management was necessary. But, like in all reform processes, they also expressed doubt and criticism. Some workshop participants know a lot about a particular subject, others are negative-minded. There are those who mean very well, but do not know anything about the matter at stake. When you open up a discussion to a broad circle of participants, you must be prepared for all types of personalities. You have to bring them to a common level. Therefore, bringing different people together is not an easy task.

*IR: How did you succeed in creating a positive attitude?*

Mahboub Maalim: It was crucial to have people who were competent in the issue. Additionally, the fact that the process was multi-sectoral was very helpful. Usually, other ministries react in a negative way to sectoral policies. Therefore it is important to create broad ownership by involving them in the process from the very beginning. Regarding the Water Act, people from different ministries knew that the issues being discussed were relevant for their own department, as well, and that their collaboration was therefore a necessity. The process lasted over a period of almost two and half years.

Later we began to sensitise the Parliamentary Committee on Agriculture and Natural Resources, which is in charge of the water sector. It was crucial for us that they understand the approach. This step took quite a while, as we had to prepare the relevant documentation. We informed each member in various sessions, aiming to bring them to a high level of knowledgeability on the subject. When the bill finally went to the parliament, they became lead agents to defend it.

The Water Act was accepted in the year 2002 and stands for a marked shift in water delivery in Kenya.

**The new institutional set-up of the water sector**

*IR: Can you describe the new structure of the water sector in Kenya?*

Mahboub Maalim: We distinguish different levels: The Ministry of Water and Irrigation is at the top, followed by the regional authorities and the catchment area advisory authorities. The communities form the base of the pyramid. But there is also a differentiation between service delivery and water resources management tasks (Figure 1). The bill defines that water services are delivered through seven Water Services Boards. Six Catchment Area Advisory Committees (CAACs) carry out water resources management tasks. At the national level (see Figure 1), the Water Services Regulatory Board and the Water Resources Management Authority have regulatory functions – for example, with regard to water services, tariffs, licensing, and similar issues.

Services, however, are supplied by non-governmental water services providers. A services provider must go to a Water Services Board and sign a water services agreement. Licences are given to the Water Services Board by the Water Services Regulatory Board.

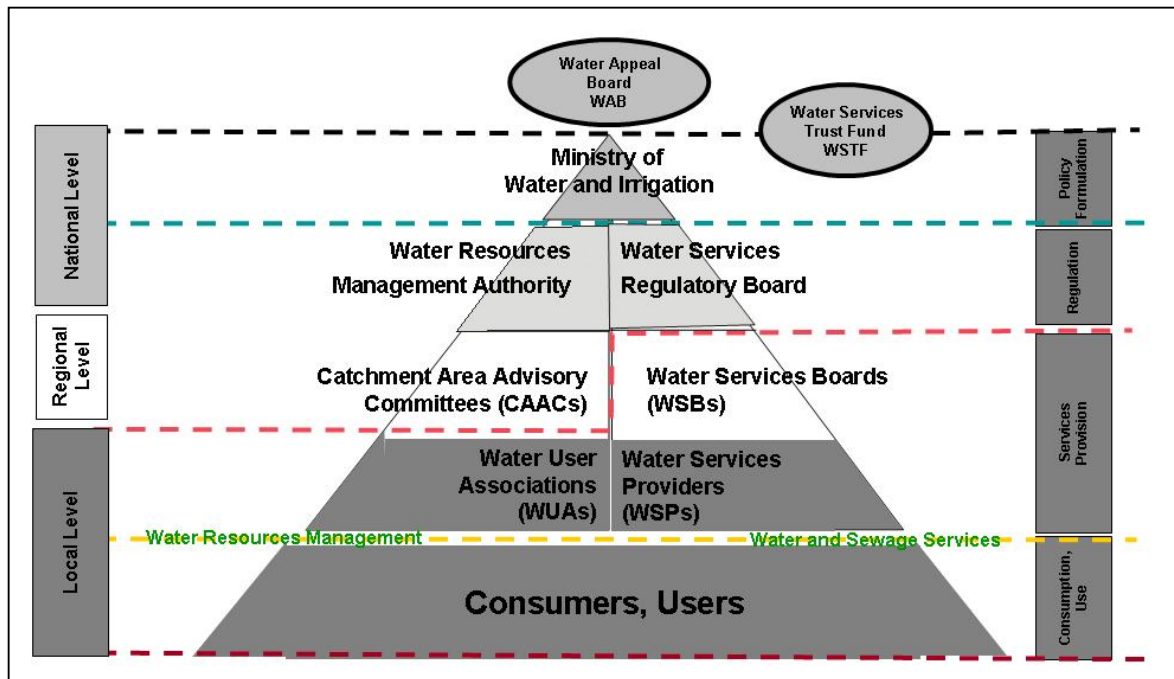


Figure 1: The institutional set-up of the Kenyan Water Sector (Figure by Engineer Mahboub Maalim, Permanent Secretary of the Kenyan Ministry of Water and Irrigation)

*IR: And what is the role of the Water Services Trust Fund?*

Mahboub Maalim: The Water Services Trust Fund is another agency meant to finance micro-projects at the community level. In some Kenyan communities it is very difficult to set up a water services provider organisation in order to get a license. The Water Services Trust Fund provides direct funding for these small communities, which would otherwise be disadvantaged.

*IR: So the Trust Fund is there to support marginalised areas and marginalised people and avoid that they suffer from the privatisation of water services delivery?*

Mahboub Maalim: Exactly. In the areas of Kenya that are characterised by pastoralists – where I come from – it is difficult to form a water service provider organisation. However, such an organisation is necessary in order to get a licence for water provision from the Water Services Board. In these areas, water services delivery is supported by means of the Trust Fund.

*IR: Sustainable use of water resources requires an integration of water resources management and water services delivery. Accordingly, the Water Resources Management Authority and the Water Services Regulatory Board must coordinate their work. How does this happen?*

Mahboub Maalim: The two functions are linked at the top management level – the Ministry of Water and Irrigation – as well as at the bottom, community level. We consider this to be a holistic approach. At the top level, the government is in charge of the overall coordination, control, policy-making, and the like. At the community level it is simply impossible to separate water services delivery from sustainable water resources management.

*IR: The reform introduced tariffs for water use. These tariffs pay providers for the water services they deliver. However, resource management also calls for investments. Are the tariff revenues divided between services providers and the Water Resources Management Authority?*

Mahboub Maalim: Water services providers charge people for the services delivered. However, there are various other sources of revenues. There is money transferred from the Ministry of Finances to the Ministry of Water and Irrigation, as well as money provided by donors, in addition to the tariffs paid by users and polluters. Furthermore, these tariffs also include payment for water permits granting individuals the right to water abstraction.

The Water Act defines how this capital is to be invested. A defined share is used for water services delivery and another for water resources management.

### **Implementing the water sector reform: Experiences**

*IR: When was the Water Act finally operationalised?*

Mahboub Maalim: The Boards were launched in July 2005.

*IR: What were the main challenges in operationalising the Water Act? What kind of constraints were there, and what kind of successes?*

Mahboub Maalim: In 2002, when the Act came into being, we had national elections in Kenya. A new administration was in charge as of December 2002. This new administration established a platform to launch reforms on all fronts. Since the water sector reform and implementation of the Water Act had been thoroughly prepared, it was extremely easy for the Ministry of Water and Irrigation to advance the Act. In a way we were lucky that the Water Act was ready at a time when the political environment changed and the willingness for reforms was great. It was a win-win situation. The political change was crucial for the realisation and implementation of the Water Act.

*IR: Was the shift of power away from the centralised government to a more decentralised system eased by the general political change, as well?*

Mahboub Maalim: The Permanent Secretary of Water has lost a great deal of power in this reform. Decisions are now taken by the newly established boards and regional water management authorities. The Permanent Secretary is a coordinator, policy formulator, and quality controller. Of course, the accounting responsibility remains with him. This decrease in power was only possible because of the change in political leadership.

I think that the stage of reform we have acquired today is stable enough to survive political change. I believe it is impossible to reverse the process, as everybody sees its fruits. We will have an election again at the end of this year [2007]. I think that the reform would not be reversed even if the government should change.

*IR: What are the fruits of the reform?*

Mahboub Maalim: The achievements are evident and significant. People's ownership of water services has increased due to the decentralisation of the decision-making process. Efficiency and cost-effectiveness have been achieved at the level of both services delivery and administration. Even if in many areas there is less water available than required, water availability has generally augmented due to water loss reduction.

Furthermore, the willingness to invest in the water sector is greater than before. The government budget has increased from 2 billion Kenyan shillings to about 14 billion shillings, mainly within the last 3 years, and there is more donor funding. We have recently signed so-called "Partnership Principles" with donors such as the World Bank and the EU, comprising concerted recommendations, consultative meetings, and progress reports. The recently adopted Sectoral Approach Planning (SAP) channels the activities of the main stakeholders to priority areas.

In conclusion, the reform has enabled activities that were previously not possible.

#### **Scenario for the future**

*IR: We would like to address one more aspect: Scenarios for Kenya predict that by 2025 the amount of water available per person will be only about a third of the amount available in 2000. Will the water sector reform contribute to slowing this trend? Is more attention given to the regeneration of water resources?*

Mahboub Maalim: Kenya is known as a water-scarce country. The annual amount of 650 m<sup>3</sup> of water available per person per annum is below the global average of about 1000 m<sup>3</sup>. This means that Kenya already faces water shortage.

We believe that the reform will contribute significantly to changing this scenario. Firstly, progress is being made in exploiting the potentials of ground water and rain water harvesting. Secondly, our engagement in transboundary water initiatives, such as the Nile Basin Initiative, is leading to increased joint water development. Thirdly, we are working to decrease water wastage. These steps, and perhaps many others, will contribute to diminishing the downward trends.

*IR: What is the role of sustainable resource management with regard to reducing water scarcity? For example, can the reduction of watershed degradation alleviate water scarcity?*

Mahboub Maalim: Yes, in fact, water resources management contributes significantly to enhancing water availability. Afforestation, improved land use practices and biodiversity conservation prevent water loss. In this respect, the Water Resources Management Authority plays a crucial role in reducing water scarcity.

*IR: Agriculture is an important factor contributing to water scarcity. How is the Ministry of Agriculture involved in the new set-up of the water sector in Kenya? How do the two sectors collaborate on the policy level?*

Mahboub Maalim: Actually, the Ministry of Water and Irrigation and the Ministry of Agriculture develop policies together. The cooperation of an Agricultural Sector Coordinating Unit (ASCU) with the Ministry of Water and Irrigation, the Ministry of Natural Resources and the Ministry for Cooperative Development contributes to achieving consensus on the national level and avoiding confusion.

*IR: On the whole, do you have the feeling that Kenya is on the right way to achieving the goals of integrated water resources management?*

Mahboub Maalim: We are very satisfied with the water reform in Kenya and we do believe that it will help us achieve integrated water resources management.

*IR: Permanent Secretary, thank you very much for this interesting interview.*