

Water Governance Benchmarking Criteria

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A. GOVERNANCE FUNCTIONS

- 1. Organizing and building capacity in the water sector**
 - 1.1 Creating and modifying an organizational structure **1**
 - 1.2 Assigning roles and responsibilities **2, 3, 4**
 - 1.3 Setting national water policy
 - 1.4 Establishing linkages among sub-sectors, levels, and national sub-regions
 - 1.5 Establishing linkages with neighboring riparian countries
 - 1.6 Building public and political awareness of water sector issues
 - 1.7 Securing and allocating funding for the sector **5**
 - 1.8 Developing and utilizing well-trained water sector professionals
- 2. Planning strategically**
 - 2.1 Collecting, managing, storing and utilizing water-relevant data
 - 2.2 Projecting future supply and demand for water
 - 2.3 Designing strategies for matching expected long-term water supply an demand and dealing with shortfalls (including drought mitigation strategies)
 - 2.4 Developing planning and management tools to support decision making
- 3. Allocating water**
 - 3.1 Awarding and recording water rights and corollary responsibilities **6**
 - 3.2 Establishing water and water rights transfer mechanisms
 - 3.3 Adjudicating disputes
 - 3.4 Assessing and managing third party impacts of water and water rights transactions
- 4. Developing and managing water resources**
 - 4.1 Constructing public infrastructure and authorizing private infrastructure development
 - 4.2 Forecasting seasonal supply and demand and matching the two
 - 4.3 Operating and maintaining public infrastructure according to established plans and strategic priorities
 - 4.4 Applying incentives and sanctions to achieve long and short term supply/demand matching (including water pricing)
 - 4.5 Forecasting and managing floods and flood impacts
- 5. Regulating water resources and services**
 - 5.1 Issuing and monitoring operating concessions to water service providers
 - 5.2 Enforcing withdrawal limits associated with water rights
 - 5.3 Regulating water quality in waterways, water bodies, and aquifers (including enforcement)
 - 5.4 Protecting aquatic ecosystems
 - 5.5 Monitoring and enforcing water service standards

B. GOVERNANCE PROCESS CHARACTERISTICS

- 1. Transparency.**
- 2. Participation.**
- 3. Accountability and Integrity.**
- 4. Rule of law.**
- 5. Coherency and Integration.**
- 6. Responsiveness.**

C. CROSS CUTTING CATEGORIES

1. Water Sources

- 1.1 Surface water
- 1.2 Groundwater
- 1.3 Derivative water (reclaimed, reused, desalinated)

2. Water Uses

- 2.1 Irrigation **7**
- 2.2 Municipal
- 2.3 Industrial
- 2.4 Environmental
- 2.5 Hydropower
- 2.6 Fisheries, navigation, recreation
- 2.7 Other uses (including social, esthetic, and religious uses)

5 **LAW 213/1994: MODIFICATIONS OF THE LAW ON IRRIGATION AND DRAINAGE** ⁷

5.1 **General**

In 1994, after intense discussions in Parliament during which the draft law was substantially trimmed down, Law 213/1994 was issued by President Mubarak on 17 June. The Law lays down for the first time in Egypt a legal basis for participation of farmers in a number of aspects of water management, albeit primarily at the mesqa level.

Subsequently the Minister of Public Works and Water Resources has issued the By-laws detailing above mentioned Law.

5.2 **Law 213/1994**

Law 213/1994 effects a number of modifications to the Law on Irrigation and Drainage, including:

Article 1 states that the two terms “Ministry of irrigation” and “Minister of Irrigation”, wherever mentioned in Law No. 12/1984, are to be substituted by respectively “Ministry of Public Works and Water Resources” and “Minister of Public Works and Water Resources”. ¹

Article 2 specifies that the articles 20, 64, and 71 of Law No. 12/1984 are substituted by the following:

Article 20: Based on a report by the competent regional irrigation inspector, or a complaint by people concerned, about violation of the preceding article², the Director General for Irrigation may order his staff to invite landowners to desalt a canal or drain it, to remove all that obstructs the flow of water, to carry out maintenance, to repair banks, or to reconstruct banks before a fixed date; in case of negligence of this notification, the Department of Irrigation shall carry out the works. The costs will be collected from the landowners proportional to the size of the lands which benefit from the irrigation canal or drain. In the costs shall be included compensation for lands used for the desilting activities. ²

Article 64: Authorization for irrigation of new lands is issued by the competent Irrigation Department. Authorized individuals are obliged to adopt one of the ways of irrigation indicated in the authorization. In case of violation of the authorization, the Ministry shall have the right to develop the irrigation network at the expense of the landowner(s), and the money shall be collected in accordance with the stipulations in article 32 of this law. **6**

Article 71: For the execution of the dispositions of this chapter, the Minister of Public Works and Water Resources shall issue a decree stipulating the conditions for irrigation of the new lands, including expenses and wages necessary for the conveyance and distribution of water. The decree will also specify the administrative organization and use of the improved irrigation system, including the formation of water associations users with a legal personality at the mesqa level. **3**

Article 3: to Law No. 12/1984 shall be added two new articles:

Article 36 bis: The Minister of Public Works and Water Resources shall organize by decree the management system for and the use by farmers of the improved field irrigation systems in the old lands where such systems are adopted. **4**

Article 36 bis(1): A special fund shall be established for the financing of projects related to the development and maintenance of improved mesqas, for the supervision of implementation thereof, and for the promotion of awareness with respect to the use of the water. The resources of that fund are (1) as specified in the state budget, (2) the loans, donations, and fees paid by the beneficiaries, (3) the investment of the fund's assets. The Minister of Public Works and Water resources shall issue a decree indicating the fund's regulations, its financial status, and the constitution of its board of directors. **5**

Law 213/1994 was signed on 17th June 1994 by President Husni Mubarak.

قانون رقم 213 لسنة 1994

بتعديل بعض أحكام قانون الري والصرف

باسم الشعب

رئيس الجمهورية

قرر مجلس الشعب القانون الأتى نصه وقد أصدرناه:

"المادة الأولى"

يستبدل بعبارتى "وزارة الري" و "وزير الري" أينما وردتا فى القانون رقم 12 لسنة 1984 بإصدار قانون الري والصرف وغيره من القوانين واللوائح والقرارات عبارتا: "وزارة الأشغال العامة والموارد المائية" و "وزير الأشغال العامة والموارد المائية".

"المادة الثانية"

يستبدل بنصوص المواد 20 و 64 و 71 من القانون رقم 12 لسنة 1984 بإصدار قانون الري والصرف النصوص الآتية:

مادة (20): يجوز لمدير عام الري – بناء على تقرير من مفتش رى الإقليم المختص أو شكوى من ذوى الشأن عن مخالفة المادة السابقة – أن يخطر رجال الإدارة لتكليف الحائزين بتطهير المسقاة أو المصرف أو إزالة ما يعترض سير المياه من عوائق أو صيانتها أو ترميم جسورها أو إعادة إنشاء الجسور فى موعد معين وإلا قامت الإدارة العامة للرى بإجراء ذلك ويتم تحصيل التكاليف الفعلية بالطرق الإدارية من الحائزين كل بنسبة مساحة ما يجوزه من الأراضى التى تنتفع بالمسقاة أو المصرف ويحسب ضمن هذه التكاليف نسبة التعويض عن كل أرض تكون قد شغلت بسبب التطهير.

مادة (64): يصدر الترخيص برى الأراضى الجديدة من الإدارة العامة للرى المختصة ويلتزم المرخص له باتباع إحدى طرق الري التى تحدد له فى الترخيص.

وفى حالة مخالفة طريقة الري المرخص بها يكون للوزارة الحق فى تنفيذ شبكة الري المتطور على نفقة المالك أو الحائز بحسب الاحوال، وتحصل قيمتها بالطريقة المنصوص عليها فى المادة 32 من هذا القانون.

مادة (71): يصدر بتنفيذ أحكامها الفصل قرار من وزير الأشغال العامة والموارد المائية يحدد شروط وأوضاع الترخيص برى الأراضى الجديدة ، وتكاليف واجور

توصيل وتوزيع المياه. كما يتضمن تنظيمياً لأسلوب الإدارة والانتفاع بنظم الري المتطور بما فى ذلك إنشاء اتحادات مستخدمى المياه ذات الصفة الاعتبارية على مستوى مجرى الري الخاص المشترك "المسقاة".

"المادة الثالثة"

يضاف للقانون رقم 12 لسنة 1984 المشار إليه مادتان جديدتان برقمى 36 مكررا ، 36 مكررا (1) نصاهما الآتيان:

مادة (36 مكررا): ينظم وزير الأشغال العامة والموارد المائية بقرار منه أسلوب إدارة وانتفاع الزراع بنظم الري الحقلى المتطور فى الأراضى القديمة التى تنفذ فيها هذه النظم.

مادة 36 مكررا (1): ينشأ صندوق خاص يتولى إتاحة التمويل اللازم لمشروعات تطوير وصيانة المساقى المطورة والإشراف على تنفيذها والعمل على رفع الوعى فى مجال استخدام المياه.

وتتكون موارد الصندوق من المبالغ التى تخصص له من الموازنة العامة للدولة ومن حصيلة القروض والهيئات والأقساط التى يزدبها المنتفعون بمشروعات التطوير ، وعائد استثمار أموال الصندوق.

ويصدر وزير الأشغال العامة والموارد المائية قراراً بالقواعد المنظمة للصندوق ونظامه المالى وتشكيل مجلس إدارته.

"المادة الرابعة"

ينشر هذا القانون فى الجريدة الرسمية، ويعمل به من اليوم التالى لتاريخ نشره يصم هذا القانون بخاتم الدولة وينفذ كقانون منقوانينها.

صدر برئاسة الجمهورية فى 8 المحرم سنة 1415هـ

(الموافق 17 يونيه سنة 1994م)

