



Conflict Potentials of the 2020 Water Resources Bill

Policy Recommendations

- 1** To democratically make a sustainable water law, all critical stakeholders should be involved to arrive at decisions that are acceptable to all.
- 2** There is a need for creating inclusive structures of water resource governance.
- 3** It would be useful to create an opening for civil society groups and consultants to make input into water policies.
- 4** Take local political dynamics and contexts into account while making water resource laws.

Water tensions and conflicts seem subtle, yet deep. They cut across international and local spaces. Across the eight states of the Nile Basin, water is thought to be a possible source of [future conflicts](#) due to increasing water needs. Within local spaces, [water](#) can become a touchstone for a range of tensions which may mature into major internal conflicts. In 2000, [violent water conflicts](#) occurred in Shandong, China, where farmers clashed with police in response to government plans to divert irrigation water to cities and industries. Also the same year in Cochabamba Bolivia, violent government repression of thousands of protesters happened following the privatisation of municipal water services.

When water tensions mix with identity issues and politics, they create complexities in politics and law, especially in deeply divided societies like Nigeria, where there exists high wire politics around all forms of resource distribution. The country's recent National Water Resources Bill 2020 seeks to bring control of all water resources in Nigeria both surface and underground and the banks of the water sources under the power of the Federal Government. Fears are rife that if the Bill becomes a law, it would be a source of water conflicts. The reason for this fear is that the Bill cedes [control of internal water resources](#) and river banks to the Federal Government, in a manner that is believed to infringe on the powers of subnational governments and rights of citizens. Despite the official viewpoint that the Water Resources Bill 2020 is harmless, many Nigerians think that the Bill could be applied to deprive some segments of the population and favour others. This edition of Nextier SPD Policy Weekly considers the Water Resources Bill,

its significant points of tension, local political dynamics and conflict potentials of the Bill if it becomes a law.

Background to the Water Resources Bill 2020

The history of the Water Resources Bill of 2020 goes back to 28th September 2016, when the Federal Executive Council considered and approved the draft [National Water Resources Bill](#). Essentially, the Bill consolidates all the existing water resources law namely, 1) the Water Resources Act, 2) the River Basin Development Authority Act, 3) National Water Resources Institute Act and 4) National Hydrological Services Act and other Acts put together to form a national law that conforms to international best practices.

The Bill was initially presented in 2017 as an Executive Bill during the Eighth National Assembly. Still, it was considered and dismissed based on its conflicts with existing laws, sensitivities and apprehensions expressed by various stakeholders about possible nepotistic use of the law for land grabbing. However, during the Ninth National Assembly, precisely July 2020, a parliamentarian moved a motion for the reopening of eleven Bills not passed by the Eighth Assembly, including the Water Resources Bill. Like the initial time it was presented, the Bill was received with sharp criticisms and rejection.

Typically, there seems to be a drive on the parts of some political interest to pass the Bill into law, while other forces equally engage them based on their understanding of the politics of the water

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law. It is believed that the Water Resources Law is a façade for an ethnic expansion project and generates intense political contestations.

The main points of tension around which local politics unfolds regarding the Water Resources Bill could be classified into two broad areas. The first is revenue-related and regulatory arguments by the proponents. The second is rights-centred arguments that connect with existing land laws, rights of state governments to regulate internal water usage, citizens access to water, rights of indigenous people to use their water bodies and river banks. Finally, there are fears of violating these rights through a federal reallocation of water resources to persons external to such communities. The last point connects with the concerns of ethnic expansion and domination.

The Water Bill and Its Discontents

The water Bill attracted intense public debates in the two instances it had been brought under legislative consideration in Nigeria. For supporters of the Bill, it is an effort to harmonise existing laws in the country which are merely re-enacted with necessary modifications in line with current global trends on [Integrated Water Resources Management \(IWRM\)](#). It is further argued that [the proposed law](#) is aimed at supporting:

- Management of the water resources for the economic development of Nigeria and the well-being of its citizens.
- Efficient management of all surface and groundwater for the use of the people for purposes like irrigation, agriculture, generation of hydro-electric energy, navigation, fisheries and recreation.
- Protection of the nation's water resources for use, development, conservation and management in a sustainable manner for the benefits of all persons.
- Public, private sector investment
- Water use and licensing framework to ensure water use and licensing for sustainable financing.

Official supporters of the Bill also made an effort to address the [concerns of the opposition](#) to the Bill by insisting that the Bill does not mean a federal incursion into local water regulation and physical planning which are state governments areas of legislative competence. To them, Federal control of water resources already exists as law before the Bill. They also express federal willingness to conform with existing Land Use laws and customary rights of access to water. Finally, they rejected the charge that the Water Bill is a veiled implementation of the RUGA (Rural Grazing Area) policy which had been dismissed strongly, mostly in the southern part of the country.

While the above intentions of the proposed water law are laudable, it takes local political dynamics and context for granted. One such dynamics is identity issues, especially the fear of domination based on ethnic identity. The Water Bill came within a period when there are anxieties related to agrarian conflicts. Pastoralists who migrate from the northern part of the country engage in bloody violence with arable farmers due to struggles for access to grazing land and water. Different approaches of the Nigerian government for resolving the issue have not been acceptable to a majority of the stakeholders. Among these approaches are government's plan to establish RUGA across the country, where the pastoralists would be provided their grazing needs to avoid crop destruction and conflicts with farmers.

The proposals for curbing agrarian violence warrant allocation of large tracts of land to cattle herders for their business. The response to the proposals has been the total rejection by communities in the southern and some north-central parts of the country. They see it as a land-grabbing venture by the politically-dominant Fulani to settle their itinerant cattle herders in the pastoral agriculture. These sentiments are reinforced by the fact that most of the bloody attacks on rural communities by

purported Fulani herders had not attracted sufficient action from the higher authorities. Amidst the tough contestation against the RUGA and the apparent difficulty of obtaining communal lands for the purpose, the Water Resources Bill was presented the same period. This political context provides the background for the arguments of the opponents to the Water Resources Bill, and the significant issues they raise are:

- By ceding the control of all surface and groundwater wherever they occur in the country in [section 2 \(1\)](#) to the Federal Government, permission could be granted to any person from any part of the country to possess any water without the consent of the local communities. Thus, it is a subtle move for grabbing land to set up grazing reserves or cattle colonies for the itinerant Fulani pastoralists.
- By giving the authority to license the sinking of boreholes to the Federal Government in [section 75](#), the Bill intrudes into the legislation of physical planning within states. In contrast, it is [state governments that ought to exercise the exclusive powers](#) of physical planning, land use and even inland waterways in coastal states.
- With the power to control all water both surface and underground across the country, the Bill empowers the Federal Government to take over water resources on landed properties, thus over-reaching the law-making powers of the National Assembly.
- The Water Resources Bill contravenes and renders the Land Use Law irrelevant.

Whatever is the merit of these two contending positions, they have become sources of tension to the politics and policy terrains and created a stalemate in the formulation of a national water law/policy. Consequently, if the Water Resources Bill, in its contested form, becomes a law, the government would have laid a background for water fights in the future.

Suggested Pathways

To prevent the water fights which the proposed water resource law in its present form is capable of generating, we present some options that would create better pathways to resolving the matter:

1. To democratically make a sustainable water law, all critical stakeholders should be involved to arrive at decisions that are acceptable to all. Based on the controversy generated by the legislation under review, there is a need for an open public dialogue on the proposed legislation across the thirty-six states of the Federation. This would support an inclusive agreement on what becomes the water resources law in the country. Besides, it would dispel the fear of domination by any one group.
2. There is a need for creating inclusive structures of water resource governance at community, sub-national and national levels and supporting stakeholder interactions at the various levels for solving problems of water resources.
3. It would be useful to create an opening for civil society groups and consultants to make input into water policies and provide input in setting up processes to support water management institutions.
4. Take local political dynamics and contexts into account while making water resource laws and even laws for other natural resources because they are volatile policy terrains in Nigeria.