

# Lebanon's Water Laws:

## Bridging Policy Frameworks to Address New Challenges

Georges Gharios, Nadim Farajalla, Rana El Hajj

Climate Change and Environment  
Program, Issam Fares Institute for  
Public Policy and International Affairs,  
American University of Beirut

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## Summary

This policy brief is based on the research paper "Bridging Policy Frameworks to Address New Challenges to Lebanon's Water Management Structure" prepared by the Climate Change and Environment Program at the Issam Fares Institute for Public Policy and International Affairs (IFI) at the American University of Beirut (AUB) and commissioned by Oxfam (as part of the H2All Consortium) for the second edition of the Lebanon Water Forum (2019), with assistance of the European Union Regional Trust Fund in Response to the Syria Crisis - The Madad Fund, and with the partnership of the Ministry of Energy and Water. The paper is an analysis of the various policy frameworks and their effectiveness in meeting priorities of Regional Water Establishments (RWEs) and water uses needs. The water policy framework in Lebanon is reviewed in the light of the latest international donor conference.

***French and Ottoman civil laws, as well as codified and customary sharia-based laws, constitute the foundation of the current Lebanese water laws.***

***Twenty years after the launching of the reforms, Lebanon does not seem to entirely meet the priorities of neither the water users' needs nor the managing agencies, and the various policy frameworks seems to have increased institutional duplication and responsibilities fragmentation on the sector.***

## KEY RECOMMENDATIONS

- The Government of Lebanon needs to reevaluate the Water Code in order to ensure that any new laws or concepts that are introduced are addressing, and potentially cancelling, old laws that are no longer applicable.
- The National Water Sector Strategy is important and relevant but has remained largely unimplemented. There are two key to its implementation: It becomes a binding document; and is broken down into 'bite-sized pieces' that would enable prioritization and phasing according to available funds.
- The Regional Water Establishments need to improve service levels while moving towards financial autonomy and accountability within the context of the local political economy.
- Tariffs need to be set in the context of progressive service improvement, in light of the local circumstances and with a view to long-term financial autonomy.

## List of Acronyms

AWO: Autonomous Water Office

CEDRE: Conference Economique pour le Developpement par les Reformes et avec les Entreprises

MEW: Ministry of Energy and Water

MHER: Ministry of Hydraulic and Electric Resources

NSWS: National Strategy for the Wastewater Sector

NWSS: National Water Sector Strategy

PPP: Public-Private Partnerships

RWE: Regional Water Establishment

WMP: Water Master Plan

## PROBLEM STATEMENT

Lebanon has built its water sector on historic foundations laid down by the successive civilizations that have governed Lebanon and the region and which have contributed much to water use and management. The country's water sector has experienced many reforms throughout its history, each of which has had a considerable impact on the country's overall management of the resources and on the behavior of water users. Since the adoption of the Ottoman Mecelle in 1877, and until the elaboration in 1999 of a ten-year Water Master Plan (WMP) by the Ministry of Hydraulic and Electric Resources, a series of codes and laws were adopted to organize and institutionalize the water sector. The current water management framework in Lebanon is the result of administrative reforms that were set in place in 2000. Today, the chief government authority responsible for water and sanitation in Lebanon is the MEW under which operate four RWEs, working alongside other actors and institutions. Twenty years after launching its water sector reform, Lebanon has still not been able to completely meet the priorities of either the water users or the managing authorities.

## WATER SECTOR INSTITUTIONAL AND POLICY FRAMEWORK PRE-1999

Throughout Lebanon's history, new water regulations have been imported and superimposed over previous ones, creating a unique situation of legal pluralism covering water laws. Customs and practices were constituted by various rules relating more to common sense than anything else and were recognized over time and given approval by legislators (Catafago and Jaber, 2001). With the publication of the Mecelle code in 1877, a large part of the prevailing customs and habits was transformed into juridical texts. Agricultural water management was regulated by the adoption of the Ottoman Irrigation Code in 1913 and its addendum in 1918. The period of the French Mandate over Lebanon (1920 - 1943) witnessed the adoption of two fundamental texts related to the protection and utilization of public water: Orders 144-S/1925<sup>1</sup> and 320/1926<sup>2</sup>. Several laws were passed since the French mandate; however, the most notable text of the pre-war period was Decree 14438/1970<sup>3</sup>, which coordinated the uses of groundwater. In 1990, after fifteen years of civil war, the management of water resources was confronted with a ruined infrastructure, a completely disorganized administration and a fragmented territory. In 1999, the General Directorate of Hydraulic and Electric Resources proposed a decennial Water Master Plan (2000-2009): The reform of Lebanon's water sector was officially launched.

## "POLICY REFORMS" SINCE 1999

Since 1999, four main events have shaped water policy reform in Lebanon: The adoption of a 10-Year Water Plan in 1999, the promulgation of a series of water administrative laws in 2000, the elaboration of a National Water Sector Strategy in 2010, and the passing of the Water Code by the parliament in 2018. In 1999, the MHER announced projected water sector reforms and proposed a ten-year plan (2000-2009) with the objective of implementing and raising the necessary funds to study and execute works in order to satisfy the water needs of the population in various sectors (Comair, 2004). In April 2000, the Lebanese parliament approved Law 221, which was promulgated in May 2000 concerning the organization of the water sector, reducing 22 Autonomous Water Offices (AWOs) to five RWEs. Law 241 corrected it in August 2000 to further reduce the five RWEs to four RWEs, in addition to the Litani River Authority. Law 247/2000, which was also passed in August, concerned the

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<sup>1</sup> Amended by Decree 11/1940

<sup>2</sup> Amended by Decree 680/1990

<sup>3</sup> Amended by Decrees 547/1990 and 13034/1998, and by the order 118/2010

renaming of the ministry as the MEW. Finally, Law 377 brought amendments to Law 221/2000 in March 2002. On March 9, 2012, the Lebanese Government officially adopted its National Water Sector Strategy (NWSS), through Resolution 2. Moreover, the MEW launched its National Strategy for the Wastewater Sector (NSWS) in the wake of the launching of the National Water Sector Strategy (NWSS). The Lebanese government adopted the NSWS, six months after the adoption of the NWSS, through resolution n° 35, on 17 October 2012 (NSWS, 2012). Finally, on April 13, 2018, the Water Code was promulgated under Law 77. The NWSS and the Water Code are currently undergoing update workshops within the MEW and with the help of several consulting offices.

## WATER POLICY FRAMEWORK IN LIGHT OF CEDRE

On April 13, 2018, the Water Code was promulgated under Law 77. This event coincided with the CEDRE Conference held in Paris on April 6, 2018. At this conference, Lebanon obtained more than \$11 billion in concessional loans and international donations to finance the first of three phases of an ambitious \$16 billion capital investment program over the next twelve years that included approximately 250 projects in the electricity, water and waste management sectors. Its adoption sent a positive signal to donors because a large part of the projects submitted covered financing concerns for the hydroelectric sector (al-Akhbar, 2018a). However, the fast promulgation of the Water Code happened haphazardly in order to accommodate the holding of CEDRE conference, and the parliament passed the draft water law as stated in the original version provided by the government, without any amendment. The implementation of donor-driven reform is not a new phenomenon in Lebanon. Since 2001, a series of four international donor conferences, known as Paris I, II, III and IV (CEDRE), took place to support the development and the strengthening of the Lebanese economy as part of a comprehensive plan of reform and infrastructure investment. In fact, they were foreign aid flows that came in the form of soft loans, many of which were contingent on a reform package that targeted several public services sectors (Oxfam, 2017).

### *Problematic areas hindering effective reform towards improved water sector management*

## INSTITUTIONAL DUPLICATION AND FRAGMENTATION OF RESPONSIBILITIES

Facing up to the high number of institutions, the fragmentation of decision-making, the lack of responsibility, and inconclusive political practices are at the heart of the problems related to water management in Lebanon (Riachi, 2013). Despite the extensive number of actors involved in the management of the country's water, no one is effectively managing the resource in any real sense. The existing legal framework for the Lebanese water sector is not well organized and structured as to avoid mismanagement and the overlap of responsibilities (CAMP, 2003). Although the MEW and the RWEs are the main governmental authorities responsible for management of the water sector other actors and stakeholders, with no clearly defined mandates are also involved. This has led to confusion and at times contradictory responsibilities. Table 1 lists some of the governmental entities involved in the water sector.

**Table 1: Organizations involved in water management in Lebanon**

Institution	Role in the management of water
Ministry of Public Health	Supervising the protection of the consumer by controlling potable water and monitoring pollution.
Ministry of Environment	Responsible for monitoring pollution, climate change, overuse and environmental impact assessment.
Ministry of Agriculture	Responsible for irrigation water quality, research, extension and training for use of irrigation water.
Ministry of Public Works	Manages meteorological stations in Lebanon and storm drainage networks.
Ministry of Industry	Regulates industrial water use.
Ministry of Interior and municipalities	Responsible for municipal affairs in terms of wastewater management.
Ministry of Information	Plays an important role in raising awareness.
Ministry of State for Administrative Reforms	Participates in elaborating new draft laws and legislation, and water sector reform.
Ministry of Foreign Affairs	Plays a role in negotiations over international transboundary waters.
Council for Development and Reconstruction	In charge of planning infrastructure development, mobilizing funds for major development projects and supervising project execution.
National Council for Scientific Research	Scientific research, remote sensing.
Lebanese Agricultural Research Institute	Meteorological forecasting.
Council for the South	Reconstruction projects for South Lebanon.
Central Fund for the Displaced	Reconstruction of networks and pipes in displaced areas of Mount Lebanon.
Interior Security Forces	Responsible for enforcing arrest warrants and for controlling offenses linked to the environment according to the decrees of public authorities.
Governors	Represent all centralized authorities in their respective governates.
Lebanese Government	Responsible for legislative processes through the Cabinet and the Prime Minister's office.
Lebanese Parliament	Responsible of the legislative processes including the government through parliamentary subcommittees.
UN agencies	Project implementation: FAO, UNDP, UNICEF, ESCWA, etc.
Non-Governmental Organizations	Project implementation.
Water Users	Farmers, irrigators, cooperatives, local committees, Water Users' Associations (WUAs), etc.
High Council for Privatization	Responsible for PPP contracts.

Institution	Role in the management of water
Public Recruitment council	Responsible for recruiting staff for different agencies.
Public Accounting Board	Accounting and monitoring.
Municipalities	Municipal domains. <sup>4</sup>

## WEAK IMPLEMENTATION AND ACCOUNTABILITY

The institutional and legal framework envisaged have not been effectively implemented, with key decrees (especially those in support of Law 221) still missing and major revisions needed for the recently passed Water Code. Lebanon's National Water Sector Strategy (NWSS), drafted between 2008 and 2010, and approved by the government in 2012, represented a necessary and important step in the development of the Lebanese water sector. However, it remained a non-binding executive order that did not impose any legal requirement on public or private entities to take actions to implement it (Oxfam, 2017). While the NWSS remains an important framework for reform, its implementation has been constrained by weak accountability and the continuous delays in the implementation of Law 221 that guarantees the institutional and legal autonomy of the RWEs (Oxfam, 2017). This draws back on RWEs need to move towards financial autonomy and accountability within the context of the local political economy. This is necessary so that they can build on their capacity to manage water service provision and improve service levels. Knowing that currently the RWEs are acting merely as businesses that are compelled by the government to provide services to the consumer in terms of irrigation, potable water and wastewater.

## LOOKING FORWARD - KEYS TO BRIDGING POLICY FRAMEWORKS TO ADDRESS SECTOR MANAGEMENT CHALLENGES

Having a strategic policy umbrella such as the 2012 NWSS is an important and relevant framework to ensure a holistic approach to proper management of the sector. However, to avoid remaining in the deadlock of "non - implementation" as is the current state, it is important for the revised NWSS (revision currently under way -2019) becomes a binding document. Further, it should be broken down into 'bite-sized pieces' to allow for phasing its implementation according to priority and available funds.

The current reevaluation of the water code should ensure that any new policies that are introduced incorporate modern water management approaches, and that it cancels old laws that are no longer applicable.

Improving coordination through binding institutional mechanisms for investment planning and execution, is one way to overcome the fragmentation of responsibilities among different entities.

The RWEs need to improve service levels and move towards financial autonomy and accountability within the context of the local political economy. At the same time tariffs need to be set in the context of progressive service improvement, considering local circumstances and with a view to long-term financial autonomy.

<sup>4</sup> A number of laws and decrees have successively entrusted municipal domains with responsibilities in irrigation management, protection of water infrastructure, planning and implementation of wastewater infrastructure and control of water pollution (Nassif, 2016)

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