

**International Water Law in Africa
Capacity Building course
Imperial Botanical Beach Hotel, Entebbe, Uganda
3rd – 5th August 2015**



Analysis Report

Context

The *International Water Law in Africa training course* took place at the Imperial Botanical Beach Hotel, Entebbe, Uganda from Monday 3rd to Wednesday 5th August 2015. The training was organized by Global Water Partnership (GWP), together with the African Network of Basin Organizations (ANBO), Intergovernmental Authority on Development (IGAD), Makerere University, and Centre for Water Law, Policy & Science, University of Dundee (CWLPS). The training was conducted by Dr. Emmanuel Kasimbazi, Chair, Environmental Law Centre, Makerere University and Dr. Alistair Rieu-Clarke, Reader in International Law, Dundee University as lead facilitators. The training was supported by generous in-kind contributions of Ms Lesha Witmer, Special Advisor to WWF, Ms Sonja Koeppel, UNECE Water Convention Secretariat, and Dr Alan Nicol, International Water Management Institute (IWMI). The other facilitators were Dr. Marcella Nanni, water law expert, Prof. Ben Twinomugisha, School of Law and Dr Ronald Mayambala-Kakungulu of School of Law, Makerere University.

Despite a relatively short announcement period (1st June to 25th June), the training attracted over 80 applicants from across institutions in Africa; with 36 ultimately being selected for the training. These applicants came from over 20 African countries, and represented a diverse range of institutions that influence policy making and implementation (e.g. government agencies, river basin organisations, non-governmental organisations, universities and the media).

Programme

The 3-day programme was designed to, firstly, explore the role and relevance of legal rules and principles applicable to transboundary water management in Africa; secondly examine the scope and meaning of key rules and principles; and thirdly share experiences in the implementation of international water law from across Africa.

The first day set the context by including an introduction to international water law, and a discussion on the 1997 UN Watercourses Convention and the 1992 UNECE Water Convention.

This discussion was complemented by a series of presentations from the participants that highlighted some of the challenges in implementing international water law within specific basins across Africa, including the Pangani River, the Limpopo River, the Nile River, the Senqu River, the Akanyara River and Lake Victoria. Day one also included presentations on issues of definition and scope within transboundary water treaties, and an overview of the substantive principles of international water law, i.e., equitable and reasonable utilisation, no significant harm and the protection of ecosystems.

The morning of the second day focused on procedural norms in international water law. Firstly an overview of key procedural norms was given, and then a series of case studies from the participants was given on some of the challenges in implementing procedural rules. These presentations focused on the establishment of basin agencies, the monitoring of groundwater, and the notification and consultation concerning planned hydropower developments. The second half of the day was dedicated to a group exercise where the participants broke out into teams in order to address a hypothetical dispute over a transboundary river. The exercise offered an opportunity for participants to apply some of the insights from the discussion on the substantive and procedural norms.

The third and final day focused on institutional arrangements and river basin organisations; regional approaches to transboundary water cooperation, including UNECE, IGAD and SADC; dispute settlement procedures; and national implementation of transboundary cooperative arrangements.

Participant feedback

The feedback from the participants was generally positive.

- **General feedback:** The overwhelming majority of those that completed feedback forms agreed that the training was both interesting, professionally relevant, and that similar training courses should be run in the future.
- **Course content:** Feedback on training course content was generally positive. Participants suggested areas that might be covered in future training, and there appeared to be considerable interest in paying more attention to transboundary groundwater, negotiation skills, and the financial sustainability of river basin organisations. Other topics that were suggested include, the similarities and differences between the UN Watercourses Convention and regional frameworks (SADC protocol, EAC protocol, CFA), climate change, water pollution, institutional structures at the national level, gender mainstreaming, water diplomacy and water economics.
- **Course delivery:** Most participants agreed that the presentations were clear, although a few participants indicated that the course materials might be improved. Several participants would have liked to receive a hardcopy of the training materials. Another suggestion was to increase the involvement of trainers and facilitators from Africa. Several participants were also keen to see more group work.
- **Course duration:** In terms of timing, more than 50% of the participants that filled out the feedback forms were of the opinion that the training was too short, whereas the others felt it was just right.
- **Course organisation and facilities:** most participants were positive about the course organisation and facilities although some felt both might be improved.
- **Additional feedback:** Other comments received from the participants included the suggestion that more specialised / in-depth training should be developed for those who had a basic knowledge of international water law. One participant also suggested that some form of assessment might be included.

Recommendations*

Following the experience of the training and drawing upon the feedback of the participants, a number of recommendations can be offered:

- Course content:
 - Include more content related to negotiation skills, transboundary groundwater, gender mainstreaming, climate change, water diplomacy, legal and institutional frameworks of lakes and River Basin Organisations and the linkages between finance/investment and transboundary cooperative arrangements.
 - Consider embedding a field trip into the workshop in order to look at the practical aspects of international water law implementation, and facilitate networking opportunities amongst the group.
 - Additional tailor-made specialised training courses should be considered for those with a basic understanding of international water law. Such courses might focus on water treaty negotiations, national implementation, notification and consultation (including EIAs), and dispute settlement. These additional modules might even be assessed, with a view to developing a more substantial accredited diploma course in international water law. Both distance and onsite delivery could be considered for these additional modules.

- Course delivery
 - The inclusion of the participants in the programme worked well and could be developed. Participants could be asked to write a short paper that illustrates some of their experiences related to the challenges in implementation of international water law within a particular case. These papers could be peer-reviewed prior to the training, and then subsequently published as part of the course materials.
 - A textbook on *International Law and Transboundary Waters in Africa* could be developed as core reading materials for the training course, and also disseminated more widely. This textbook would examine the evolution of international law relating to transboundary waters in Africa, and cover the key rules and principles that apply.
 - Include more group exercises throughout the training, which might pick up on the above topics and others, e.g. water pollution water legislation and the relevance of global instruments.
 - There are a number of well-known African experts in international water law that can be approached in order to contribute to the training course.

- Course duration:
 - The course could be extended in order to embed additional topics, such as negotiation skills training, group exercises and a field trip.

- Course organisation and facilities:
 - Announce the course more in advance in order to allow for a wider dissemination of the announcement amongst target audiences.
 - Ensure that the deadline for applications is set sufficiently prior to the date of the training to allow sufficient time to liaise with participants, and to develop the papers (see above).
 - If the training course takes place in Entebbe then a local partner might help GWP EAF with logistics. The Nile Basin Discourse, for example, is willing to take on such a role. Alternatively, opportunities to host the training at Makerere University are now being explored.

*More detailed recommendations are provided in the GWP, *Concept Note and Proposal on Capacity Development on International Water Law (IWL) for improved transboundary water management in Africa*.

In general, the training was extremely worthwhile and the efforts of GWP and the other partners should be commended. The course clearly demonstrated that there was a need for similar trainings that are able to build the capacity of water experts in the field of international water law. Ultimately, the effective development and implementation of transboundary cooperative legal arrangements rests in the hands of water experts. Such courses offer a critical means by which they can develop their *shared* knowledge and understanding of international water law amongst their fellow riparians.