



Colorado State University
Department of Agricultural
and Natural Resource Economics

**International School for
Agricultural and Resource Development**

LEGAL ASPECTS OF WATER RESOURCES DEVELOPMENT:
SELECTED REFERENCES

Prepared For:

REGIONAL SYMPOSIUM ON WATER RESOURCES POLICY
August 4-8, 1985 Dhaka, Bangladesh

And The

GOVERNMENT OF BANGLADESH

By

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FOREWORD

This Water Law Bibliography has been prepared to provide references to relevant water laws of other countries for planners, administrators and experts who are involved in the management of water resources for both consumptive and non-consumptive uses. The basic objective is to create an awareness that legislation is a necessary management tool for the achievement of development objectives.

While the creation of nation-states has led to the formulation of international water laws as a means to settle disputes between and among nations, the nations have also found it useful to adopt an appropriate legal framework within the country for efficient and optimum uses of both surface and ground water resources. As far as Bangladesh is concerned, both international water laws and the laws adopted within the country are important since there is a necessary relationship of interdependence between them.

Bangladesh has a rich tradition in terms of attempts to design and adopt a framework of in-country water laws intended to promote the development of agriculture. This development thrust has necessarily made the laws secular in intention and purpose. The earliest attempts, made during the British colonial period, reached their fruition when, with the end of colonial rule, the subsoil and fishery rights were wrested from the Zamindars (landlords) and vested in the State under the Bangladesh State Acquisition and Tenancy Act, 1950. This was a significant development in that it clearly defined the water rights between the State and the people. Prior to this development, various legislations relating to

the laws of land and water defined the rights of the State, the Zamindars and the peasants. Some of these legislations, such as the Bengal Irrigation Act, 1876, reserved to the State the right to impose and collect water rates in specific project areas.

After 1947, the development of water laws mainly followed this trend. The Water Rate Laws of 1963 and 1983 are such examples. The use of subsoil water continued to be governed by the customary and legal rights of the landowners for use of ground water for drinking as well as for limited irrigation purposes. The late sixties saw an increasing development of both ground water and surface water resources through Deep Tubewells and Low Lift Pumps. This trend continued to grow, culminating in the late seventies with a rapid expansion in the use of Shallow Tubewells.

The period up-to mid-1984 saw an unprecedented growth in the use of ground water resources which has of late led to an awareness of the need for planned use of ground water. Cognizant of the problems associated with unplanned use of ground water leading to adverse hydrological consequences, the Agriculture and Forest Division took the initiative to prepare legislation on the use of ground water resources. This is in the last stage of finalisation. The intention of the proposed law is not to inhibit the growth of irrigation but to ensure planned and rational use of ground water for agricultural production.

The present compilation is an initial attempt which may need to be updated periodically in the light of both current and past developments. Besides, the legal rights for purposes other than irrigation such as drinking, fisheries development, transportation, etc., lie scattered in

other statutes which need to be incorporated if the bibliography is to be comprehensive. It is hoped that this will be done in due course.

With this qualification granted, the bibliography in its present form is useful for all those who have, as their major concern, the efficient management of water resources for the maximum benefit to the maximum number close to their heart, and I express my grateful thanks to Dr. Radosevich for the service he has provided in compiling this bibliography.

/s/

(A. M. Anisuzzaman)
Secretary
Agriculture & Forest Division
Ministry of Agriculture
Government of Bangladesh

other states which need to be incorporated in the diploma is to be completed. It is hoped that this will be done in due course.

On the qualification grounds, the diploma is in its present form is useful for all those who have, as their major concern, the efficient management of water resources for the common benefit to the next generation. It is hoped that the diploma will be a source of inspiration to all those who are engaged in the service of the community.

The diploma is a recognition of the achievements of those who have completed the course. It is a symbol of the high standards of the institution. It is a source of pride and honor for the graduates. It is a source of inspiration for the students who are yet to complete the course.

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PREFACE

In mid-1984, meetings were held in Dhaka, Bangladesh to discuss the need, scope and process for convening a conference to address a number of critical policy and other institutional issues related to increasing the efficiency and effectiveness of the government and water users in water resources development, utilization, and management. The Government of Bangladesh had requested the USAID/Dhaka to assist the Ministry of Irrigation (MOI) in preparing the conference as part of the country's efforts to increase food production partly through better utilization of its water resources. Extensive programs were already underway to determine the existing supply and demand for water, spatially and temporally, and to evaluate technical issues and solutions. It was apparent that the institutional aspects related to the concern also had to be addressed.

The situation in Bangladesh is not unique. Many, if not the majority of countries around the world, are constantly faced with trying to implement programs and technologies within an institutional framework long antiquated and resistant to change. Exemplifying this problem is the status of most nation's water policies, laws, and organizational structures. Part of the problem is caused by the different and often conflicting objectives or motives of the political decision makers and the implementing organizations, and between the technical and socio-economic oriented personnel within the organizations.

It was decided that an Asia regional symposium would be organized and held in Dhaka, Bangladesh in August, 1985. The primary purpose to focus on the role and formulation of water policy and related

institutional aspects associated with the development, utilization, and management of surface and ground water resources by irrigated agriculture and closely related multi-purpose uses to meet domestic, industrial, power, navigational, fisheries and coastal zone management needs in Bangladesh and other similarly situated countries.

Hydrologically, Bangladesh is truly one of the unique countries in the world. It is gifted by an annual rainfall of approximately 200 inches a year. It is blessed with fertile soil. Normally, one may think that with these conditions there should be no "water availability problem." However, in spite of the large volume of rainfall, the temporal and spacial distribution throughout the country is such that in certain parts of the country, and at certain times of the year, there is an insufficient amount of water available to fill the needs of agricultural, rural, domestic, municipal and industrial demands. This is particularly true when one examines the sources of water supply and the highly interdependent nature of the consumptive water uses with non-consumptive uses, such as, navigation, power, fisheries, coastal zone management and prevention of sea water intrusion. Of importance in the last decade has been the development of ground water and problems that have occurred as a result of receding ground water tables.

Therefore, in spite of the abundance of water at certain times of the year and certain locations, optimization of available supplies requires a thorough examination of not only the physical means of water utilization but, also the legal, institutional, economic and social aspects. This is necessary for the development of comprehensive water resources management capabilities in the government and to inform water users of the conditions and problems that presently exist or may arise.

In order to assess the legal and institutional situation in Bangladesh, a compilation of Water Laws of Bangladesh was prepared in 1983. It was determined the next step would be to provide information on laws of other countries to those working on this topic in Bangladesh. There is no question that books, articles, research reports, and agencies documents on the topic of water law and institutions is as important to government officials, lawyers and others working on this topic, as is a hydrologic laboratory to a civil or agricultural engineer. At the present, water quantity and quality laws in Bangladesh are basic, particularly with respect to ground water control and international rivers development and management. There is also little question, at this period of time in the history of Bangladesh, that the proper development and maximum utilization of the country's available water resources is extremely important to meet its food and fiber needs and other developmental activities taking place.

With this as the background and the Regional Symposium for Water Resources Policy scheduled for August, 1985, this bibliography was prepared. This compilation of selected references is divided into three major categories based upon source of information. The first category contains books and reports. The second category contains journal articles. The third category is a listing of non-legal reference material that may be important to any person working on the subject of formulating laws, rules and regulations for the development and management of water resources. The first two categories of information, that is, "I. Books and Reports," and "II. Articles," are further sub-divided into three areas based upon the nature of the law. Sub-category "A." of "I." and "II." contains references on Water Policy, Planning and Management and

National Water Quantity Laws. This is by far the most voluminous sub-category and was further sub-divided into three areas to assist the user. The Area "1" contains all references of the General/Regional nature. Area "2" contains citations to references of specific countries, and the area "3" contains citations to materials on Water User Organizations. Areas "1" and "2" pertain to water policy and laws, whereas area "3" addresses the non-governmental and quasi-governmental types of organizations created by or for the water users themselves to facilitate local water use improvements.

Sub-category "B." of "I." and "II." contains International Water Law references. This is distinct from sub-category "A." in that the former is concerned with the law of international rivers and other bodies of water of an international nature, while the latter pertains to intra-state or national water law matters.

Sub-category "C." of "I." and "II." contains references to materials on Water Quality Laws. The books, reports and articles cited in this sub-category were selected as having particular relevance to the conditions that exist in Bangladesh with respect to water quality control. Sedimentation, sea water intrusion, water pollution discharges into waterways by municipalities and industrial users are topics addressed by these references.

Regarding the citations themselves, the system used is based on "title identification." This was considered most relevant to the particular needs of prospective users of this selected bibliographical compilation. Therefore, within each category, the titles are alphabetized, followed by identification of the author. Thereafter, the citations vary depending upon whether they are in category "I." and "III." or category

"II.". For references cited in category "I." and "III.", following the author is the source of the document, if any, such as conferences proceedings or identification of the agency preparing the report. That is followed by the publisher and the listing concludes with the publication date. Material cited in category "II." begins with article title, followed by the author, then identification of the journal, volume number and issue. This is followed by the page number(s) and, then the periodical date.

It is hopeful that this bibliography will be useful to those working on the subject of water policy law, administration and organizations, be they government officials, lawyers, engineers, economists, sociologists or other interested parties. Any questions, comments or suggested additions are welcomed and should be sent to:

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II. For references cited in category "I" and "III", following the author is the source of the information, such as conference proceedings, identification of the author, including the report. The information is followed by the publisher and the year of publication. For references cited in category "II" and "IV" with article titles, the journal, volume number, and issue number is followed by the author(s) and the year of publication.

III. For references cited in category "III" and "IV" with article titles, the journal, volume number, and issue number is followed by the author(s) and the year of publication. For references cited in category "III" and "IV" with article titles, the journal, volume number, and issue number is followed by the author(s) and the year of publication.

IV. For references cited in category "IV" with article titles, the journal, volume number, and issue number is followed by the author(s) and the year of publication. For references cited in category "IV" with article titles, the journal, volume number, and issue number is followed by the author(s) and the year of publication.

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