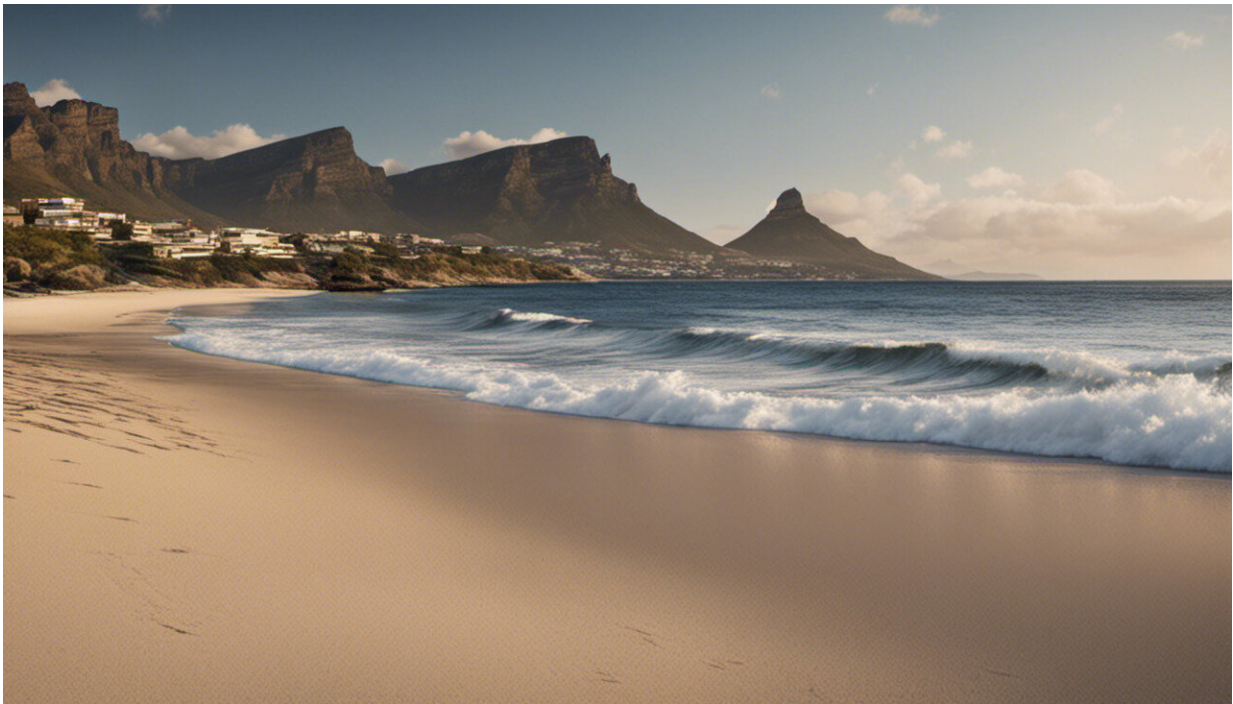


# South Africa needs good water management—not new water laws

February 6 2018, by Mike Muller

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Credit: AI-generated image ([disclaimer](#))

Because water is shared by everyone, there have to be some rules to govern the way it is used. But it's a difficult resource and when things go wrong, the temptation is to blame the unpredictable water – or the rules.

In fact, the problem is usually neither the [water](#) nor the rules, but the

people concerned.

When politicians in trouble say that the rules need to be changed, be wary. Experience around the world is that, more often than not, water laws [aren't the problem](#). They're simply not implemented. So [proposals](#) from South Africa's minister of Water Affairs Nomvula Mokonyane to revise the two laws that underpin South Africa's [water security](#) are worrying. South Africans need to ask whether the problems are with the laws or with her department's administration of them.

The two laws are the 1998 [National Water Act](#) and the [1997 Water Services Act](#). The Water Act sets out how South Africa should cope with the vagaries of the country's climate and the demands of a growing population. It stipulates what different tiers of government and water users should do and what procedures should be used to address particular problems. The Water Services act regulates municipal water supply and sanitation services.

So what happens when there is no longer enough water to go around or to meet new needs? The current laws set out technical and administrative processes that need to be followed if there's no longer enough water to go around, or if there isn't enough to meet new needs. These allow water to be reallocated between existing users and those seeking water for the first time.

The law also gives priority to leaving enough water in rivers to sustain the environment and establishes procedures for doing that.

And the law instructs the minister to monitor and make public both the availability of water and the evolving uses of water. Where shortages loom, the law obliges her to establish a strategy to show how this will be dealt with.

Just because there is a law on the statute books doesn't mean that it will be implemented. As Cape Town has shown, a few years of good rainfall allowed people to believe that their water supply was adequate. And half of South Africa's major metros would be at risk if there was a serious multi-year drought. Many water courses are polluted by poorly managed wastewater plants as well as unlicensed and unsupervised mining operations. In some places, poor farmers who want to irrigate their land can't get a licence because the water is "all allocated".

History teaches us that this is a dangerous moment.

## **Civilisations have fallen**

Great civilisations in Mesopotamia, Egypt, Rome, China and Central America were built on rigorously enforced [water management rules](#).

In Mesopotamia, if a neighbour's field was flooded because you did not maintain your canal, you replaced his crop or your household goods were sold. The Egyptians were less charitable; allowing dykes to deteriorate could be punished by death. Early Hindu law gave Indian kings the duty of monitoring public waters – and the right to execute by drowning anyone who broke a dam and caused water to be lost.

Chinese administrations ensured that water users maintained their infrastructure and only used water for authorised purposes. The Roman Water Commission used double entry bookkeeping, with one column for water sources and availability, another for water uses, including public purposes as well as private concessions. When those concessions ended, the water was returned to the commission for reallocation.

Many historians believe that failures of water administration were one cause of the collapse of a number of early civilisations. It should be a warning. But there shouldn't be impatience. It can take many years for

new water laws to come into effect. Europe introduced its [Water Framework Directive in 2000](#). We will only know in 2027 whether it has reached its initial objectives. Countries like Mexico introduced a succession of new laws over the past few decades, not allowing time to get one right before trying [to introduce something new](#).

This is the larger problem facing South Africa. Rather than get on with the complicated and often thankless task of managing water resources and regulating water services, ministers have been finding excuses to avoid getting down to business.

## **Complicated business**

Some parts of water law are difficult. It may seem simple to allocate water between competing users, but it requires a great deal of work to know how much water is available and how much water is currently being used, by whom. Only then can a decision be made as to whether new users can just take water from existing sources or whether existing uses need to be curtailed.

Similarly, water licences for mines and wastewater treatment plants must protect the quality of the rivers and streams which they may pollute. To set the conditions, officials must know how much water is flowing in the streams (the higher the flow, the more pollutants they can absorb without damage). They also need to know how much pollution is coming from other sources. Local communities must make choices about the balance between pristine water, economic activity and social needs.

Water management is about setting up organisations that can work with the resource and its users. The new institutions needed are provided for in existing legislation. Despite a great deal of talk, they have not yet been set up.

Even routine parts of the existing law have not been complied with. For example, the National Water Act requires [the minister to deliver](#), a [National Water Resource Strategy](#) every five years. It's meant to set out how much water is available in the country and how much is being used. But this basic responsibility has not been complied with.

So rather than revise the water law, the priority must be to do the spade work of [water management](#): collect and interpret the data, ensure that administrative systems work, and enforce the rules.

Until these basics are done, it is almost certainly premature to talk of revising the law – unless, that is, the intention is to distract from the failure to do the basic work in the first place.

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