

A detailed analysis of evolution of water rights in South Africa: An account of three and a half centuries from 1652 AD to present[#]

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Abstract

This study reviews the changing scene of water rights in South Africa over the last three and a half centuries and concludes that they have come full circle, with some modifications, since the invoking of Dutch rule in the Cape in 1652 AD. The study stipulates that adoption of a modern rights structure is a welcome change and a progressive step taken by the democratic government; however, its success depends to a great extent on the institutional efficiency of the state which performs the role of trustee or custodian of the water resource. The responsibilities of trusteeship with respect to managing water rights or permits are met through a decentralised decision-making system. The management of water rights/permits thus depends on the administrative and judicial efficiency of organisations and government departments. Therein lurks the danger of corruption, bureaucratic inefficiency, and insecurity of permits, and hence enough potential to stifle the long-term incentives to invest in the water sector.

Keywords: water rights, riparian, *dominus fluminis*, appropriation, modern water rights, sustainability, South Africa