



Government of India
Ministry of Water Resources

**REPORT OF THE COMMITTEE FOR DRAFTING
OF NATIONAL WATER FRAMEWORK LAW**

**May, 2013,
New Delhi**

FOREWORD

As India takes its place in the sun in this century as a major global entity it does so with a high rate of growth and a young restless population on the move. Very little can hold it back. But water, energy and other non renewable resources like land will set the eventual limits of high growth. In spite of all the hiccups and the fact that in some regions we are already very stressed, I believe we have the civilization strength to use water well. Therefore when the MOWR asked me to chair a Committee to develop a Draft Framework Law for the Water Sector I accepted the daunting task. I am grateful to the MOWR for keeping in the Committee the well known constitutional expert Prof. Madhava Menon and some very good specialists from the knowledge and activist sectors.

In an initial draft Shri Mohan Kumar, then Additional Secretary, MOWR, used a very convenient expression: 'Appropriate Government'. The Framework is meant to provide the larger structure for organizing the support mechanisms to States and communities in their governing institutions at the levels that matter, the Local Government, CBOs (Community Based Institutions), the Management of ponds, water bodies, watersheds, aquifers, and river basins. These support mechanisms can be critical for the Appropriate Government. Cutting edge frontier technology in water delivery and development projects has to be developed at home and accessed in the World and made available. Working Best Practices must be known and diffused. Development and applications of success stories will require data and information support. The Framework attempts to set up the systems to aid the State Governments, Local Bodies and the Appropriate Government in these support mechanisms.

The Framework also includes in it the relevant aspects of the role of the national government in the complex area of dispute resolution. In a federal setup this has to be a national task. Again experienced based solutions need to be looked at. Asked to arbitrate in a season's dispute on water sharing in a river basin, following the Apex Courts directive, I had also suggested that a three layer system implemented in the Mekong Basin amongst nations which had actually gone to war with each other be designed. This system, at the highest level political, at the second level coordinative and at the third level a delivery apparatus, was implemented and has worked reasonably well. These problems need constant attention.

To the best of my understanding the only aspect in which the Draft Framework is prescriptive at the National level, is its requirement that a minimum amount of life giving water must be the right of every Indian. For the rest it only designs a structure to, empower in detail and support the State Governments, Local Governments and governing institutions of the water sector to play their ordained role. I am confident that it will get a good hearing.

Yoginder K. Alagh
28 May 2013

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INTRODUCTION

- 1.1 The growing demand for water as a result of population growth, urbanization and economic growth has resulted in tremendous pressure on water resources making India a water stressed country by international standards. With the per capita availability of water continuing to decline, the nation hurtles towards water scarcity. Climate change which might bring in its wake increased temporal and spatial variation in availability of water is likely to exacerbate the water situation further. Extreme events like floods and droughts could occur more frequently affecting livelihood and food security. Injudicious inter-sectoral and intra-sectoral distribution of water amongst various categories of water users, growing pollution of water sources, low water use efficiency, unsystematic water resources planning and development, poor maintenance of irrigation systems and poor recovery of water charges are some of the major problems associated with the management of water resources in the country. India has to rise above these challenges and provide water security to the people.
- 1.2 In the Indian context, water resource management has been traditionally project centric. This has resulted in unsystematic approach to water resource planning based on a narrow vision and ad-hocism. The need for nurturing a healthy institutional framework for the water sector across the country was overlooked. Sustainable water management is inseparable from the goal of sustainable development. The country's future growth strategies will have to mainstream sustainable management of our water resources. While it is true that water is by and large a State subject, the provisions of entry 56 of the Constitution notwithstanding, it is widely felt that the problems confronting the water sector call for a unified national perspective. It is high time we identified the common denominators of water governance and took steps to achieve water security and sustainability keeping our future generations in view. We need to think of a national framework for reforms in water governance rising above political, ideological and regional differences. This means that a set of fundamental principles should guide water governance throughout the country irrespective of divergence in approach. These principles need to be enshrined in a legal framework applicable throughout the country which could be evolved by the States themselves through consensus.
- 1.3 During consultation meetings for evolving National Water Policy (2012) with various stakeholders, the need to evolve a Framework Law as an umbrella statement of general principles governing the exercise of legislative and/or executive (or devolved) powers by the Centre, the States and the local governing bodies emerged. It would lead the way for essential legislation on water governance in every State of the Union and devolution of necessary authority to the lower tiers of government to deal with the local water situation. Such a framework law must recognize water not only as a scarce resource but also as a sustainer of life and ecology. Therefore, water, particularly, groundwater, needs to be managed as a community resource held, by

the state, under public trust doctrine to achieve food security, livelihood, and equitable and sustainable development for all.

- 1.4 In formulating the Twelfth Plan, a Sub-Group (as part of the Working Group on Water Governance) was set up under the former Secretary, Water Resources, Prof. Ramaswamy R. Iyer to draft a National Water Framework Law. The Sub-Group evolved a draft National Water Framework Law, which was deliberated during the third meeting of the Steering Committee on Water Resources and Sanitation for Twelfth Five Year Plan held on 20.10.2011. Secretary, Ministry of Water Resources, while appreciating the effort, stated that the Draft Act should be in conformity with the existing Acts, Laws, Principles etc. and some minimum standards should be prescribed for the States for implementation and to prevent them from Business As Usual (BAU) scenario. Earlier attempts on prescriptive laws by Centre have not helped and States themselves have acknowledged that they require a strong push from the Centre to make their establishment recognise the critical stage of water development.
- 1.5 Ministry of Water Resources was also of the opinion that the National Water Framework Law needed to be evolved through wider consultations with all stakeholders, particularly the State Governments. In view of this, Ministry of Water Resources initiated action for preparation of Water Framework Act. A Drafting Committee headed by Dr. Y.K. Alagh, Chancellor, Central University of Gujarat; Vice-Chairman, Sardar Patel Institute of Economics & Social Research; Former Minister of Power, Planning Science and Technology, Government of India was constituted for Drafting National Water Framework Law on 3rd July, 2012. The other Members of the Drafting Committee are Prof. N.R. Madhava Menon, International Bar Association – Continuing legal Education Centre (IBA-CLE) Chair in National Law School of India University (NLSIU), Bangalore; Prof. K.P. Singh, Professor, Punjab University; Ms. Jyoti Sharma, Forum for Organized Resource Conservation and Enhancement (FORCE); Shri Videh Upadhyay, Advocate; and Officers from Ministry of Water Resources, Central Water Commission, Central Ground Water Board. The Office Order constituting the Committee to draft National Water Framework Law is at Annex I.
- 1.6 The Committee for drafting National Water Framework Law held four meetings on 25th September, 2012, 12th October, 2012, 22nd March, 2013 and on 22nd April, 2013. The minutes of these meetings are at Annexes II to V respectively. A sub-group headed by Special Secretary, Ministry of Water Resources was also set up on 31st December, 2012 to prepare working draft of the National Water Framework Law. A colloquium was also held on 25th February, 2013 at Administrative Staff College of India, Hyderabad.

NEED FOR A NATIONAL WATER FRAMEWORK LAW

2.1 National Water Policy (2012) noted that the present scenario of water resources and their management in India had given rise to several concerns, important amongst them were;

(i) Large parts of India have already become water stressed. Rapid growth in demand for water due to population growth, urbanization and changing lifestyle pose serious challenges to water security.

(ii) Issues related to water governance have not been addressed adequately. Mismanagement of water resources has led to a critical situation in many parts of the country.

(iii) There is wide temporal and spatial variation in availability of water, which may increase substantially due to a combination of climate change, causing deepening of water crisis and incidences of water related disasters, i.e., floods, increased erosion and increased frequency of droughts, etc.

(iv) Climate change may also increase the sea levels. This may lead to salinity intrusion in ground water aquifers / surface waters and increased coastal inundation in coastal regions, adversely impacting habitations, agriculture and industry in such regions.

(v) Access to safe water for drinking and other domestic needs still continues to be a problem in many areas. Skewed availability of water between different regions and different people in the same region and also the intermittent and unreliable water supply system has the potential of causing social unrest.

(vi) Groundwater, though part of hydrological cycle and a community resource, is still perceived as an individual property and is exploited inequitably and without any consideration to its sustainability leading to its over-exploitation in several areas.

(vii) Water resources projects, though multi-disciplinary with multiple stakeholders, are being planned and implemented in a fragmented manner without giving due consideration to optimum utilization, environment sustainability and holistic benefit to the people.

(viii) Inter-regional, inter-State, intra-State, as also inter-sectoral disputes in sharing of water, strain relationships and hamper the optimal utilization of water through scientific planning on basin/sub-basin basis.

(ix) Grossly inadequate maintenance of existing irrigation infrastructure has resulted in wastage and under-utilization of available resources. There is a widening gap between irrigation potential created and utilized.

(x) Natural water bodies and drainage channels are being encroached upon, and diverted for other purposes. Groundwater recharge zones are often blocked.

(xi) Growing pollution of water sources, especially through industrial effluents, is affecting the availability of safe water besides causing environmental and health

hazards. In many parts of the country, large stretches of rivers are both heavily polluted and devoid of flows to support aquatic ecology, cultural needs and aesthetics.

(xii) Access to water for sanitation and hygiene is an even more serious problem. Inadequate sanitation and lack of sewage treatment are polluting the water sources.

(xiii) Low consciousness about the overall scarcity and economic value of water results in its wastage and inefficient use.

(xiv) The lack of adequate trained personnel for scientific planning, utilizing modern techniques and analytical capabilities incorporating information technology constrains good water management.

(xv) A holistic and inter-disciplinary approach at water related problems is missing.

(xvi) The public agencies in charge of taking water related decisions tend to take these on their own without consultation with stakeholders, often resulting in poor and unreliable service characterized by inequities of various kinds.

(xvii) Characteristics of catchment areas of streams, rivers and recharge zones of aquifers are changing as a consequence of land use and land cover changes, affecting water resource availability and quality.

2.2 National Water Policy (2012) also recognized that public policies on water resources need to be governed by certain basic principles, so that there is some commonality in approaches in dealing with planning, development and management of water resources. These basic principles are:

(i) Planning, development and management of water resources need to be governed by common integrated perspective considering local, regional, State and national context, having an environmentally sound basis, keeping in view the human, social and economic needs.

(ii) Principle of equity and social justice must inform use and allocation of water.

(iii) Good governance through transparent informed decision making is crucial to the objectives of equity, social justice and sustainability. Meaningful intensive participation, transparency and accountability should guide decision making and regulation of water resources.

(iv) Water needs to be managed as a common pool community resource held, by the state, under public trust doctrine to achieve food security, support livelihood, and ensure equitable and sustainable development for all.

(v) Water is essential for sustenance of eco-system, and therefore, minimum ecological needs should be given due consideration.

(vi) Safe Water for drinking and sanitation should be considered as pre-emptive needs, followed by high priority allocation for other basic domestic needs (including needs of animals), achieving food security, supporting sustenance agriculture and minimum eco-system needs. Available water, after meeting the above needs, should be allocated in a manner to promote its conservation and efficient use.

(vii) All the elements of the water cycle, i.e., evapo-transpiration, precipitation, runoff, river, lakes, soil moisture, and ground water, sea, etc., are interdependent and the basic hydrological unit is the river basin, which should be considered as the basic hydrological unit for planning.

(viii) Given the limits on enhancing the availability of utilizable water resources and increased variability in supplies due to climate change, meeting the future needs will depend more on demand management, and hence, this needs to be given priority, especially through (a) evolving an agricultural system which economizes on water use and maximizes value from water, and (b) bringing in maximum efficiency in use of water and avoiding wastages.

(ix) Water quality and quantity are interlinked and need to be managed in an integrated manner, consistent with broader environmental management approaches inter-alia including the use of economic incentives and penalties to reduce pollution and wastage.

(x) The impact of climate change on water resources availability must be factored into water management related decisions. Water using activities need to be regulated keeping in mind the local geo climatic and hydrological situation.

2.3 The legislative framework of the Constitution related to water is based on Entry 17 of the State List, Entry 56 in the Union List and Article 252 of the Constitution. These are:

a) Entry 17 in List II (State List) in Schedule VII

Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of Entry 56 of List-I.

b) Entry 56 of List I (Union List):

Regulation and development of inter-state rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

2.4 Thus, water is primarily a State subject. The States have the competence to make laws, formulate and implement plans and schemes for development of water resources for water supply, irrigation, hydropower etc. Several States have enacted different laws also. But, most of these laws do not address the present concerns in the water resources sector and in a holistic manner. Considering its critical importance in national development, water needs to be managed with a national perspective based on the acceptance of a few common fundamental principles. This need was recognized many years ago. The National Development Council in its 36th meeting held on March 14, 1982 had observed that a climate should be created in which national water plans are prepared keeping in view the national perspective as well as State and regional needs. In that context the Council welcomed the proposal for setting up of the National Water Resources Council with Prime Minister as Chairman and Chief Ministers of all States and the concerned Central Ministers as members. Accordingly, Government of India, by resolution dated 10th March, 1983 set up National Water Resources Council (NWRC) with the Prime Minister as its Chairman, with several Union Ministers and the Chief

Ministers/Administrators of all States and Union Territories as members. Secretary, Ministry of Water Resources is the Secretary of National Water Resources Council.

- 2.5 It is this recognition of the need for a minimal national consensus on certain basic perceptions, concepts and principles that led to the adoption of the National Water Policy (NWP) of 1987, 2002 and 2012. However, a national water policy has no legal status. A national water law is, therefore, necessary to make the tenets of such a consensual statement justiciable.
- 2.6 National Water Policy (2012) adopted by the National Water Resources Council at its sixth meeting held on 28th December, 2012, inter-alia stipulates that

“There is a need to evolve a National Framework Law as an umbrella statement of general principles governing the exercise of legislative and/or executive (or devolved) powers by the Centre, the States and the local governing bodies. This should lead the way for essential legislation on water governance in every State of the Union and devolution of necessary authority to the lower tiers of government to deal with the local water situation.

Such a framework law must recognize water not only as a scarce resource but also as a sustainer of life and ecology. Therefore, water, particularly, groundwater, needs to be managed as a community resource held, by the state, under public trust doctrine to achieve food security, livelihood, and equitable and sustainable development for all. Existing Acts may have to be modified accordingly.”

- 2.7 The Twelfth Five Year Plan Document, approved by the National Development Council at its 57th meeting held on 27th December, 2012, also highlights that different State Governments tend to adopt different positions on the rights of different States over the waters of a river basin that straddles more than one State. Such legal divergences tend to render the resolution of inter-State river-water conflicts even more difficult than they already are. A national statement of the general legal position and principles that should govern such cases seems desirable. Water, like air, is one of the most basic requirements for life. If a national law is considered necessary on subjects such as the environment, forests, wildlife, biological diversity, and so on, a national law on water is even more necessary. Water is as basic as (if not more) than those subjects.
- 2.8 The Twelfth Five Year Plan Document also states that the idea of a national water law is not something unusual or unprecedented. Many countries in the world have national water laws or codes, and some of them (for instance, the South African National Water Act of 1998) are widely regarded as very enlightened. There is also the well known European Water Framework Directive of 2000. The considerations behind those national or supra-national documents are relevant to India as well, although the form of a water law for India will clearly have to be guided by the nature of the Indian Constitution and our own specific needs and circumstances.
- 2.9 Therefore, both National Development Council and National Water Resources Council have emphasized the need of having a National Water Framework Law.

PROPOSED STRUCTURE OF THE NATIONAL WATER FRAMEWORK LAW

- 3.1 The Committee for drafting of National Water Framework Law reviewed the following documents;
- (i) Recommendations of the National Commission for Integrated Water Resources Development (NCIWRD)
 - (ii) Draft National Water Framework Law prepared by the Sub-Group (as part of the Working Group on Water Governance) set up under the former Secretary, Water Resources, Prof. Ramaswamy R. Iyer.
 - (iii) The Twelfth Five Year Plan Document approved by the National Development Council.
- 3.2 The National Commission for Integrated Water Resources Development (NCIWRD), set up by the Ministry of Water Resources under the chairmanship of Dr. S.R. Hashim, then Member, Planning Commission, in its report in 1999, carried out a review of legal and institutional framework for the water sector in the country. It observes that there is no legal backing for many of the vital concerns that have arisen in the field of water resources development. It emphasized the need of formulation of a comprehensive National Water Code, that is, not one single law but an integrated set of water laws. Referring to such codes framed in a few countries, which were found extremely useful, NCIWRD recommended preparation of an integrated set of laws with the assistance of the Law Commission.
- 3.3 Draft National Water Framework Law prepared by the Sub-Group (as part of the Working Group on Water Governance) set up under the former Secretary, Water Resources, Prof. Ramaswamy R. Iyer emphasized water as sustainer of life and part of heritage and ecology. It stipulated ideal propositions but lacked stipulations for actions by Central / States Governments. It was clarified that the proposed national water law was not intended to centralise water management or to change the Centre-State relations in any way. It proposed a framework law, i.e., an umbrella statement of general principles governing the exercise of legislative and/or executive (or devolved) powers by the Centre, the States and the local governance institutions. It proposed enactment of National Water Framework Law under article 252 of the Constitution.
- 3.4 The Twelfth Five Year Plan Document approved by the National Development Council also emphasized the need of having a National Water Framework Law, as already described in para 2.7 and 2.8.
- 3.5 The Committee, after deliberations and taking into account discussions at the colloquium, drafted the draft National Water Framework Law, which is at Annex VI. The Statement of Objects and Reasons along with Financial Memorandum are also at Annex VII and VIII respectively.

3.6 The Draft National Water Framework Bill 2013 comprises eight chapters as follows:

- I. Preliminary (including definitions)
- II. Basic Principles of Water Management
- III. Right to Water, Preservation of Quality and Water Pricing
- IV. Water Resources Projects: Planning and Management
- V. Promotion of Innovation and Technology
- VI. Convergence of Schemes
- VII. Coordination and Policy Support Mechanism
- VIII. Miscellaneous

3.6.1 Chapter I deals with short title, extent, commencement and definitions. Chapter II deals with Basic Principles for Water Management. These principles are considered fundamental to a system of water governance which ensures prudent, wise, equitable, socially just, conflict free, efficient and sustainable management of water. These principles have been enshrined in the Act in keeping with the spirit of the National Water Policy, 2012.

3.6.2 The United Nations has recognized the Right to Water as a basic human right. Although the Right to Water is not enshrined in India's Constitution as Fundamental Right, various judgments of the High Courts and Supreme Court have equated the right to water as part of the 'Right to Life', which is a fundamental right. In such a context, it is felt necessary to ensure that every individual is given the right to have access to a minimum quantity of portable water within easy reach of the household, which has been prescribed in Chapter III. Considering the problems of water quality prevalent in the country, it was felt necessary to specify the minimum standards of water supply of various uses. The need for preservation of the water quality of various sources of water has also been emphasized. The draft Bill also seeks equitable pricing of water by establishing the institutional mechanism of a Water Regulatory Authority in every State. While differential pricing for pre-emptive needs like drinking and sanitation, is recommended, the need to subject allocation of pricing on economic principles to ensure efficient use is also emphasized.

3.6.3 It has been observed in NWP 2012 that Water Resources Projects are being planned and implemented in a fragmented manner without giving due consideration to optimum utilization, environmental sustainability and holistic benefits to people. It was, therefore, felt necessary that water resources have to be planned keeping the basin as a unit of planning and applying the principles of integrated water resources management. The Chapter IV of the draft Bill calls for preparation of comprehensive Master Plans for inter-State and intra-State River Basins/Sub-basins. The comprehensive water resources information system on a GIS platform is recommended. The Bill also calls for mitigation of water related disasters like floods and droughts through structural and non-structural measures including coping mechanisms. The need for aligning project planning and management to the regional agro-climatic considerations has been emphasized. The empowerment of local governing bodies like Panchayats, Municipalities, Corporations, etc., has also been

emphasized. The Bill also lays down the need for institutional arrangements for water sharing by establishing basic principles for the same.

- 3.6.4 Ground Water plays a crucial role in providing irrigation and drinking water. We depend on it for more than one-thirds of our water needs. However, in large areas of the country indiscriminate drawl of ground water has led to its unsustainable use and deterioration in water quality. The decline in water table across the country is a matter of serious concern. The present legal situation gives every land holder the right to pump unlimited quantities of water from a bore well on his own land. The sub optimal pricing of power has led to uncontrolled drawl of ground water. The regulation of ground water has not been given adequate attention in different parts of the country. The draft Bill recognizes the need for regulating ground water through community participation, regulation in the electricity, preservation of recharge zones, and prevention of pollution.
- 3.6.5 Economic development and growth inevitably leads to growing urbanization and tremendous pressure on urban water resources. The need to conserve water in urban areas and price water equitably has been emphasized in the draft bill. Integration of urban water supply and sewage treatment and re-use of treated water are deemed necessary in the context of the increasing need to improve water use efficiency. Accelerated industrial growth also calls for judicious use of industrial water through recycling and re-use. This has been brought out in Section 14 of the Draft Bill. Providing a framework for the healthy functioning of Water Users Association through empowerment has been laid down in Section 15 of the Bill.
- 3.6.6 The Chapter V of the Draft Bill recognizes the need to development and promotion of indigenous knowledge and technologies of conservation of water. Promotion of better lands, soil, water management, compatible agriculture strategies and cropping patterns and improved water application methods have been mentioned in Section 16 of the Bill.
- 3.6.7 Integration of all schemes relating to water and convergence of schemes has been emphasized in Chapter VI.
- 3.6.8 Chapter VII provides for setting up of a High Powered Committee for coordination and policy support mechanism for various agencies at the Centre and in States that deal with water.
- 3.6.9 Chapter VIII deals with miscellaneous issues such as enforcement of the Act, framing and laying of the rules, etc.

ANNEXES

**No. 15/42/2011-PP
Government of India
Ministry of Water Resources**

**Shram Shakti Bhawan, Rafi Marg,
New Delhi, dated the 3rd July 2012**

ORDER

Sub: Constitution of Drafting Committee for Drafting of National Water Framework Law – Reg.

Even while it is recognized that States have the right to frame suitable policies, laws and regulations on water, there is a felt need to evolve a broad over-arching national legal framework of general principles on water to lead the way for essential legislation on water governance in every State of the Union and devolution of necessary authority to the lower tiers of government to deal with the local water situation. Such a framework law must recognize water not only as a scarce resource but also as a sustainer of life and ecology. Therefore, water needs to be managed as a community resource held, by the state, under public trust doctrine to achieve food security, livelihood, and equitable and sustainable development for all.

2. Accordingly it has been decided to constitute a Drafting Committee to draft a National Water Framework Law. The Composition and Terms of Reference of the Drafting Committee would be as follows:-

Composition

- | | |
|--|----------|
| 1. Dr. Y. K. Alagh, former Member, Planning Commission and presently Chairman of Institute of Rural Management Anand (IRMA). | Chairman |
| 2. Prof. (Dr.) N.R. Madhava Menon, Former Vice Chancellor, West Bengal National University of Juridical Sciences, Kolkata and presently Chairman, Menon Institute of Legal Advocacy Training (MILAT) Trivandrum. | Member |
| 3. Additional Secretary, Ministry of Water Resources. | Member |
| 4. Member (WP&P), Central Water Commission. | Member |
| 5. Chairman, Central Ground Water Board. | Member |
| 6. Shri Videh Upadhyaya, Legal Consultant and Specialist on Development and Natural Resources Law. | Member |
| 7. Prof. Krishan Paul Singh, UGC Emeritus Fellow, Centre of Advanced Study in Geology, P.U., Chandigarh. | Member |
| 8. Ms. Jyoti Sharma, President, Forum for Organised Resource Conservation and Enhancement (FORCE), New Delhi. | Member |
| 9. Senior Joint Commissioner (PP), Ministry of Water Resources. | Convenor |

Contd....

Terms of Reference

To draft Water Framework Law considering the provisions in the National Water Policy, Report of the Sub-Committee on Planning Commission Working Group on Water Governance and need of water resources sector in the country.

3. The Committee may co-opt any special invitee(s) with the approval of Ministry of Water Resources.
4. Orders regarding Sitting Fee, TA / DA, etc. to non-official Chairman / Members will be issued separately.
5. The Committee will submit its recommendations within a period of three months from the date of its constitution.

Sd/- .

(Syed Ravish Ali)

Under Secretary to the Government of India

Ph No. 23714350

To

1. Dr. Y. K. Alagh, 45, Surdhara Bunglows, Surdhara Saptadhar Road, near Sal Hospital, Dhaltej, Ahmedabad.
2. Prof. (Dr.) N. R. Madhava Menon, Dr. S. Radhakrishnan Chair on Parliamentary Studies, Devi Priya, TC 17/2166, Sairam Road, Poojapura, Trivandrum-695012, Kerala.
3. Additional Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
4. Member (WP&P), Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi.
5. Chairman, Central Ground Water Board, Bhujal Bhawan, NH-4, Faridabad.
6. Shri Videh Upadhyaya, J-241, Sarita Vihar, New Delhi.
7. Prof. Krishan Paul Singh, UGC Emeritus Fellow, Centre of Advanced Study in Geology, P.U., Chandigarh-160014.
8. Ms. Jyoti Sharma, President, Forum for Organised Resource Conservation and Enhancement (FORCE), C-8 / 8035, Vasant Kunj, New Delhi-110070.
9. Senior Joint Commissioner (PP), Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.

Copy to:

1. PS to Hon'ble Minister of Parliamentary Affairs and Water Resources, New Delhi.
2. PS to Hon'ble Minister of State for Water Resources & Minority Affairs, New Delhi.
3. PPS to Secretary (Water Resources), New Delhi.
4. Sr. PPS to Chairman, Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi.
5. PS to JS & FA, Ministry of Water Resources, New Delhi.

No. 15/42/2011-PP
Government of India
Ministry of Water Resources

Shram Shakti Bhawan, Rafi Marg,
New Delhi, dated the 17th April, 2013

ORDER

Sub: Drafting Committee for Drafting of National Water Framework Law -reg.

Reference this Ministry's Orders of even number dated 3rd July, 2012 and 14th January, 2013 on the subject mentioned above.

2. The period for submission of draft recommendations by the Drafting Committee for Drafting of National Water Framework Law is hereby extended upto 31st May, 2013.

Sd/- .

(Syed Ravish Ali)

Under Secretary to the Government of India

Ph No. 23714350

To

1. Dr. Y. K. Alagh, 45, Surdhara Bunglows, Surdhara Saptadhar Road, near Sal Hospital, Dhaltej, Ahmedabad.
2. Prof. (Dr.) N. R. Madhava Menon, Dr. S. Radhakrishnan Chair on Parliamentary Studies, Devi Priya, TC 17/2166, Sairam Road, Poojapura, Trivandrum-695012, Kerala.
3. Additional Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
4. Member (WP&P), Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi.
5. Chairman, Central Ground Water Board, Bhujal Bhawan, NH-4, Faridabad.
6. Shri Videh Upadhyaya, J-241, Sarita Vihar, New Delhi.
7. Prof. Krishan Paul Singh, UGC Emeritus Fellow, Centre of Advanced Study in Geology, P.U., Chandigarh-160014.
8. Ms. Jyoti Sharma, President, Forum for Organised Resource Conservation and Enhancement (FORCE), C-8 / 8035, Vasant Kunj, New Delhi-110070.
9. Senior Joint Commissioner (PP), Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.

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1. PS to Hon'ble Minister, Water Resources, New Delhi.
2. PPS to Secretary (Water Resources), New Delhi.
3. Sr. PPS to Chairman, Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi.
4. PS to JS & FA, Ministry of Water Resources, New Delhi.
5. Pay & Accounts Officer, Ministry of Water Resources, New Delhi.
6. Cash Section, Ministry of Water Resources, New Delhi.
7. Finance Desk, Ministry of Water Resources, New Delhi.

Govt. of India
Ministry of Water Resources

**MINUTES OF THE FIRST MEETING OF THE DRAFTING COMMITTEE FOR DRAFTING
OF NATIONAL WATER FRAMEWORK LAW HELD ON 25TH SEPT., 2012 IN NEW DELHI**

The first meeting of the Drafting Committee for drafting of National Water Framework Law was held on 25th September, 2012 under the chairmanship of Dr. Y.K. Alagh in New Delhi. The list of participants is at **Annexure 1**.

Shri G. Mohan Kumar, Additional Secretary (Water Resources) welcomed the members of the Drafting Committee. Giving the background for constitution of the Committee, he informed that though water is by and large a State subject, the provisions of entry 56 of the constitution notwithstanding, it is widely felt that the problems confronting the water sector call for a unified national perspective. It is high time we identified the common denominators of water governance and took steps to achieve water security and sustainability keeping our future generations in view. We need to think of a national framework for reforms in water governance rising above political, ideological and regional differences. This means that a set of fundamental principles should guide water governance throughout the country irrespective of divergence in approach. These principles need to be enshrined in a legal framework applicable throughout the country which could be evolved by the States themselves through consensus. He further informed that a Sub Group of the Working Group on Water Governance for XII Five Year Plan constituted by the Planning Commission had drafted a National Water Framework Law, which was mostly a statement of principles. He also informed that Ministry of Water Resources had also constituted a Committee under Justice T.S. Daobia, Retd. Judge of High Court, to draft a River Basin Management Act to provide for the establishment of River Basin authority for the regulation and development of Inter State Rivers and River Basins. He expressed hope that this Committee with distinguished members would be able to draft a National Water Framework Law, which would be broadly acceptable to States.

Dr. Y.K. Alagh, Chairman thanked Ministry of Water resources for taking such a good initiative to evolve a National Water Framework Law to ensure better governance of water by Centre, States and Local Governing Bodies to achieve water security, which was of paramount importance. He expressed dismay over the present state of affairs in water resources sector and stated that in spite of very good initiatives taken in the past, the situation was far from satisfactory due to lack of legal backing. He proposed that the Framework Law should contain all aspects of water governance. Rights and duties of Governments at different levels as also those of public, private and communities need to be specified. He further suggested that legal and institutional aspects of water resources data, dispute resolution mechanisms in the form of institutions like Cauvery River Authority or Mekong River Commission needed to be looked into. Aspects of planning, design and implementation of water resources projects along with stipulation for a national water projects required to be studied and provided for in the framework law. He emphasized that water pricing and recovery of O & M cost should be done on the basis of efficiency pricing

including long range marginal cost principle. He raised the concept of planning for water resources as per agro-climatic zones along with planning taking river basins as unit. The mechanisms for community involvement and its integration with existing governance institutions, viz., Zila Panchayats, might have to be clarified in the framework law. He suggested that 2 or 3 working groups may be constituted to dwell upon legal and constitutional issues, minimal requirement for better water governance, water pricing aspects, etc.

Prof. N.R. Madhav Menon explained the relevant provisions regarding legislative management of water under the Constitution and stated that there appeared to no legal impediments in enactment of National Water Framework Law under the provisions of Article 249 etc. He stated that several orders of Hon'ble Supreme Court had also interpreted the provisions of the Constitution in this manner. He suggested that this law could be titled "National Water Governance Act" and should be written in simple language to ensure easy implementation and to avoid multiple interpretations. He further suggested that the framework law should be self contained and comprehensive with cross reference to existing Acts at appropriate places. A note on "Water and its Legislative Management under the Constitution: Some Relevant Provisions" prepared by him is enclosed as **Annexure 2**.

Shri Videh Upadhyaya expressed full agreement with the views of Prof. N.R. Madhav Menon. Citing the example of Water (Prevention and Control of Pollution) Act, 1974, he suggested that such enactment by Parliament was also possible under the provisions of Article 252 if two or more State legislatures resolve to this effect.

Prof. K.P. Singh stated that the Framework Law should be comprehensive and integrated with the provisions of existing legislations like Environment Protection Act, 1986, Biological Diversity Act, 2002, etc. He laid emphasis on water quality and suggested that provision for adequate safeguards for water quality and health of the river should be adequately incorporated in the framework law.

Ms. Jyoti Sharma stated that water was more an emotive and political issue and therefore, needed to be looked at that perspectives rather than just a natural resource. She stated the Framework Law should cover all laws on water and wished that our policies on water should be as clear as judicial pronouncements. She opined that every State should resort to self-sufficiency in water resources, on which some members expressed reservations owing to diversity in our country and need for equity.

Additional Secretary (Water Resources) proposed that the Committee should meet again to finalize the contents of the framework law, which was agreed to. Concluding the deliberations, the Chairman thanked all members for being positive about the need of having a National Water Framework Law. He directed the Convener to draft an outline of the framework law in line with the discussions in the meeting for deliberations in the next meeting of the drafting committee scheduled on 12th October, 2012.

The meeting ended with vote of thanks to the Chair.

**MINUTES OF THE FIRST MEETING OF THE COMMITTEE FOR DRAFTING OF
NATIONAL WATER FRAMEWORK LAW HELD ON 25th SEPTEMBER, 2012 IN NEW
DELHI**

LIST OF PARTICIPANTS

1.	Dr. Yoginder K. Alagh	Chairman
2.	Prof. N.R. Madhava Menon	Member
3.	Sh. G. Mohan Kumar, Additional Secretary (Water Resources)	Member
4.	Sh. Rajesh Kumar, Member (WP&P), CWC	Member
5.	Prof. Krishan Paul Singh	Member
6.	Ms. Jyoti Sharma, President	Member
7.	Sh. Videh Upadhyay	Member
8.	Sh. M.K. Sinha, SJC (PP), Ministry of Water Resources	Convener
9.	Sh. Arun Kumar, Regional Director, CGWB	Invitee

Water and its Legislative Management under the Constitution: Some Relevant Provisions

Fundamental Rights

Right to potable drinking water is interpreted by Courts as part of right to life and personal liberty guaranteed under Article 21 of the Constitution.

Right to equality before the law and equal protection of the laws guaranteed under Art. 14 would require non-discrimination and absence of arbitrariness in the matter of access to water. Article 15(2)(b) prohibits the State of discrimination, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to -

the use of wells, tanks, bathing ghats maintained wholly or partly out of State funds or dedicated to the use of the general public.

Directive Principles of State Policy

Article 39(b) directs the State to adopt policies with a view to secure –

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good.

Fundamental Duties

Article 51A imposes the duty on every citizen of India –

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for all living creatures.

Distribution of Legislative Powers and Parliamentary Supremacy over States

Article 246 read with the Seventh Schedule provides that the Union Parliament may make laws with respect to the matters contained in Union List (List I of Seventh Schedule) and a State Legislature may make laws with respect to matters in the State List (List II of the Seventh Schedule). As regards matters in the Concurrent List (List III of Seventh Schedule), both Union and Parliament and State Legislatures are vested with concurrent powers of law making.

The Constitution gives autonomy to the Centre and the States within their respective fields. Therefore, a legislation by one of the States cannot be held to be discriminatory or suffering from the vice of hostile discrimination as against its citizens simply because the Parliament or the Legislatures of other States have not chosen to enact similar laws.

Article 254(1) provides for the rule that in the event of a conflict between a Union and State law, the former prevails (provided Parliament is competent to enact on that subject). In other words, Parliamentary supremacy is maintained in matters falling under Lists I and III irrespective of the fact that the Union law may have been enacted prior to the State law or subsequent to the State law.

By virtue of Article 246, it is clear that power of Parliament to enact a law which is not covered by matters in List II and List III is absolute. Similarly, if there is a conflict in respect of legislative powers vis-a-vis Lists I and II, the attempt should be first to reconcile it; but if it is irreconcilable the Central legislation shall prevail. Again, if there is a conflict between List II and List III, it is Union power with respect to matters in List III, which shall prevail. This is what the opening words of Clause (3) of Article 246 indicate.

Under Art. 248, Parliament has exclusive power to make any law with respect to any matter not enumerated in the State List or Concurrent List.

Furthermore, Article 246(4) confers unqualified power of legislation on the Union Parliament vis-a-vis Union Territories. There is no distribution of legislative power with regard to U.Ts

Water in the Scheme of Distribution of Legislative Powers

Union List

56. Regulation and development of Inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.

State List

17. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of Entry-56 of Union List.

Concurrent List

- 18. Adulteration of food stuffs and other goods.
- 20. Economic and Social planning.
- 34. Price control
- 38. Electricity
- 42. Acquisition and requisitioning of property

Eleventh Schedule (Powers of Panchayats: Art. 243G)

- 3. Minor irrigation, water management and water-shed development
- 11. Drinking water
- 13. Roads, culverts, bridges, ferries, waterways and other means of communication
- 29. Maintenance of community assets

Twelfth Schedule (Powers of Municipalities: Art. 243W)

5. Water supply for domestic, industrial and commercial purposes

Parliament's Power to legislate on matters in the State List

Deviating from the typical federal scheme, the Indian Constitution has made the Centre stronger to meet unexpected situations. Without a Constitutional amendment, the Union Parliament can legislate on State subjects under the following circumstances:

(i) Power of Parliament to legislate in the national interest (Art. 249) if Rajya Sabha passed a resolution by the majority of not less than two-thirds of the members present and voting to that effect.

(ii) Power of Parliament to legislate during operation of a proclamation of emergency (Art.250).

(iii) Parliament's power to legislate with the consent of the States (Art. 252), i.e., if two or more State Legislatures pass resolution to that effect.

(iv) Parliament's power to legislate to give effect to international agreements (Art. 253).

(v) Parliament's power to legislate under Article 356 in case of emergency breakdown.

Centre's control over State Legislation

Though States are free to legislate on matters in the State List, the Centre can exercise control on State legislation. Thus, Article 200 empowers the Governor of the State to reserve any Bill passed by the Legislature of the State, for consideration of the President. There are other provisions also (Article 288(2) and 304(b) where laws passed by State would become law only if assented to by the President.

Centre's direction to the States

The Constitution imposes certain obligations on the State Governments in order to ensure that a State Government, by exercising its powers, does not interfere with the legislative and administrative actions of the Central Government. This administrative control over States is felt necessary because the 'Centre has no territory of its own and it exercises its powers over the territory which is administered directly by the States. Thus Article 256 provides that the executive power of every State shall be so exercised as to ensure compliance with the laws made by Parliament. It further empowers the Central Government to give such directions to a State as may appear to be necessary for that purpose. To ensure that States comply with the administrative policies of the Centre, Article 257(1) authorizes Centre to give directions to a State. Parliament may, by law, also declare any highways or waterways to be national highways or national waterways. Coercive sanction can be exercised by Centre for disobedience of Central directives (Article 356 read with Article 365).

Disputes relating to Water

Article 262(1) provides for Parliament to make law for the adjudication of a dispute in respect of the use, distribution or control of the waters of any Inter-State river or river valley. In exercise of this power, Parliament had passed the River Board Act, 1956 and the Inter-State Water Disputes Act, 1956. While the former Act provides for the regulation and development of Inter-State rivers and river valleys, the later authorizes the Government to set up a Tribunal for the adjudication of disputes relating to waters of Inter-State rivers or river valleys. The Act declares the decision of the Tribunal to be final and binding on the parties to the dispute. The Act excludes the jurisdiction of all the courts including the Supreme Court in respect of disputes referred to the Tribunal.

Conclusion

The constitutionality of Parliament's authority to legislate on a National Framework Act on Water has to be resolved in the context of the above provisions. If Parliament could enact the River Boards Act, The Inter-State Water Disputes Act, The Water (Prevention and Control of Pollution) Act and given the fact that right to water is part of right to life with consequent obligations on the State, the constitutionality appears self-evident.

Govt. of India
Ministry of Water Resources

MINUTES OF THE SECOND MEETING OF THE DRAFTING COMMITTEE FOR DRAFTING OF NATIONAL WATER FRAMEWORK LAW HELD ON 12TH OCTOBER 2012 IN NEW DELHI.

The second meeting of the Drafting Committee for Drafting National Water Framework Law under the Chairmanship of Prof. Y.K. Alagh was held on 12th October 2012 in the Conference Room of Shram Shakti Bhawan, New Delhi. The list of participants is at Annexure.

At the outset the Chairman welcomed all the Members and asked the Convener to present the outline draft of National Water Framework Law.

Senior Joint Commissioner (PP), MoWR and the Convener presented the draft outline of National Water Framework Law. He stated that the framework law was intended to include general statement of principles governing the exercise of legislative and / or executive (or devolved) powers by the Centre, the States and the Local Governing Bodies. He proposed that the framework law should comprise of guiding principles on water as common pool resource; water entitlements, sharing and allocations; climate change adaptation strategies, integrated water resource planning and management project planning and implementation, water-strategy ecology and equity; water pricing; water availability demand and utilization studies; participatory water management and convergence of schemes.

Additional Secretary (WR) explained the rational behind various provisions stated in the outline draft. He stated that the framework law was proposed to serve as code of conduct for the Centre, States and Local Governing Bodies in the water sector.

Prof. N.R. Madhava Menon referred to the recommendation of National Commission of Integrated Water Resources Development (1999) and enquired whether the proposed draft should be called National Water Code, like Civil Procedure Code, comprising of various laws, regulations and executed directions. The Chairman stated that this could be considered, but there was no evidence of a water code in a federal setup.

The Chairman also asked about the constitutional provisions through which the Planning Commission exercise significant influence over the States in implementation of planned schemes.

Shri Videh Upadhyaya suggested that Article 252 could be an acceptable provision for enactment of National Water Framework Law.

Smt. Jyoti Sharma suggested that States may be incentivized to implement the proposed framework law and other reforms in the water sector.

The Committee deliberated on the outline draft and stressed on clear and unambiguous definitions for various terms, quantification of minimum quantity of water for drinking and sanitation needs, consideration of ground water in allocation of water resources, institutionalizing community management of water resources and its integration with Local Governing Bodies, implementation of global obligations, etc. The Committee felt that the National Framework Law should be consistent with the existing laws in so far as definitions are concerned. Chairman suggested that self explanatory note on the various components of the outline draft be prepared.

Summing up the deliberations, the Chairman suggested that a sub-group under the Chairmanship of Additional Secretary (WR) with Members drawn from Central water Commission, Central Ground Water Board, Shri Videh Upadhyaya and Smt. Jyoti Sharma be constituted to prepare recommendations for drafting of National Water Framework Law. The sub-group may take guidance from Prof. N. R. Madhava Menon on various issues and can come out with alternative propositions for various provisions.

The meeting ended with vote of thanks to the Chairman.

**MINUTES OF THE SECOND MEETING OF THE DRAFTING COMMITTEE FOR
DRAFTING OF NATIONAL WATER FRAMEWORK LAW HELD ON 12TH OCTOBER 2012
IN NEW DELHI.**

LIST OF PARTICIPANTS

- | | | |
|-----|---|------------|
| 1. | Dr. Yoginder K. Alagh | - Chairman |
| 2. | Dr. N.R. Madhava Menon | - Member |
| 3. | Sh. G. Mohan Kumar, Additional Secretary (Water Resources) | - Member |
| 4. | Shri Rajesh Kumar, Member (WP&P), Central Water Commission | - Member |
| 5. | Sh. Sushil Gupta, Chairman, Central Ground Water Board | - Member |
| 6. | Prof. Krishan Paul Singh | - Member |
| 7. | Shri Videh Upadhyaya | - Member |
| 8. | Ms. Jyoti Sharma, | - Member |
| 9. | Sh. M.K. Sinha, SJC (PP), Ministry of Water Resources | - Convener |
| 10. | Arun Kumar, Regional Director, Central Ground Water Board | -Invitee |

Govt. of India
Ministry of Water Resources

**MINUTES OF THE THIRD MEETING OF THE COMMITTEE FOR DRAFTING OF
NATIONAL WATER FRAMEWORK LAW HELD ON 22nd MARCH, 2013 IN NEW DELHI**

The third meeting of the Drafting Committee for drafting of National Water Framework Law was held on 22nd March, 2013 under the chairmanship of Dr. Y.K. Alagh in New Delhi. The list of participants is given at **Annexure 1**.

The discussions were centered around the first draft of the National Water Framework Law, which had been circulated to the members before the meeting. Various provisions were deliberated upon in detail and modifications suggested by members were incorporated. Prof (Dr.) N.R. Madhav Menon, referring to para 8.11 of the report of National Commission on Integrated Water Resources Development (NCIWRD) on “Need for National Water Code”, mentioned that the idea of National Water Framework Act was first mooted by the NCIWRD and suggested that this fact may be mentioned in the Preamble of the proposed Bill. The Chairman, however, suggested that the historical background along with references / recommendations on National Water Framework Act in the Twelfth Five Year plan as well as National Water Policy – 2012 be included in the Statement of Objects and Reasons. Prof (Dr.) N.R. Madhav Menon also suggested that the various sections be reorganized in different chapters.

Apart from the existing provisions, the Chairman suggested that a new chapter on “Promotion of Innovation and Technology” be included.

The draft of the National Water Framework Bill has been modified in the light of discussion held during the meeting and the same is enclosed to these minutes as **Annexure 2** (not reproduced).

Concluding the deliberations, the Chairman thanked all members for participating in the drafting of National Water Framework Bill.

The meeting ended with a vote of thanks to the Chair.

**MINUTES OF THE THIRD MEETING OF THE COMMITTEE FOR DRAFTING OF
NATIONAL WATER FRAMEWORK LAW HELD ON 22nd MARCH, 2013 IN NEW DELHI**

LIST OF PARTICIPANTS

- | | | |
|----|---|------------|
| 1. | Dr. Yoginder K. Alagh | - Chairman |
| 2. | Dr. N.R. Madhava Menon | - Member |
| 3. | Sh. G. Mohan Kumar, Special Secretary (Water Resources) | - Member |
| 4. | Prof. Krishan Paul Singh | - Member |
| 5. | Shri R.K. Jain, Chief Engineer (BPMO), CWC | - Invitee |
| 6. | Sh. D.S.C. Thambi, Member, CGWB | - Invitee |
| 7. | Sh. Arun Kumar, Regional Director, CGWB | - Invitee |
| 8. | Sh. Shekharendu Jha, Deputy Director, CWC | - Invitee |
| 9. | Sh. Sanjeev Kumar, Deputy Director, CWC | - Invitee |

**Government of India
Ministry of Water Resources**

**MINUTES OF THE FOURTH MEETING OF THE COMMITTEE FOR DRAFTING OF
NATIONAL WATER FRAMEWORK LAW HELD ON 22nd APRIL, 2013 IN NEW DELHI**

The fourth meeting of the Committee for Drafting National Water Framework Law under the Chairmanship of Prof. Y.K. Alagh was held on 22nd April, 2013 in the Conference Room of Shram Shakti Bhawan, New Delhi. The list of participants is at Annexure.

At the outset the Chairman welcomed all the Members and emphasized the need of setting up of a Water Resources Planning and Policy Support Agency as a coordination and policy support mechanism between different agencies dealing with water. After detailed deliberation, it was decided to add an enabling provision in the Framework Law for setting up of High Powered Committee at the Centre and in each State to carry out following activities;

- (2) To prepare a perspective plan for sustainable development of water resources ensuring water security for the years 2025 and 2050 for each District, State and for the entire country.
- (3) To provide support to River Basin Authorities, State Governments and appropriate local bodies, in operational water resources planning system studies, including consulting services, both in house and out sourced.
- (4) To prepare study reports, papers, advisories and other documents on issues like state of the art techniques in India and abroad on issues like water footprints and efficiency benchmarks, standards, water regulation, water rights, water pricing, project planning, climate change issues, efficient use of water and convergence of the water sector with land use, agriculture, urbanization and energy development.
- (5) To prepare monitoring reports on national and global experience on successful experiences in complex areas of water development, including studies of successes of water projects of a difficult nature with lessons on level of appropriate government functioning in federal countries, dispute resolution mechanisms, measurement of water flows in complex delivery systems, community and NGO involvement in problem resolution and use of advanced technologies in water projects and planning.
- (6) To support and prepare studies on flood forecasting and amelioration, hydrology and sensitive environmental zones, including mountain regions ,coastal regions and port towns; and
- (7) To prepare studies on any other area relating to the water sector that it may consider important or may be referred to it by the appropriate Government

Joint Secretary (PP) suggested that proviso be included for provision of a minimum quantity of water for drinking and sanitation free of cost, especially to the poor by the state. Referring to the provisions in the Food Security Bill, the Chairman suggested that a proviso might be added in clause 6 dealing with 'water pricing' that the appropriate Government might provide minimum quantity of water for drinking and sanitation free of cost to eligible households.

Special Secretary (WR) proposed checking of legal drafting of the draft National Water Framework Law. The Committee, after deliberation, decided to request the members of the Committee with legal background to edit the draft Bill from legal point of view.

The Special Secretary (WR) proposed that the draft report of the Committee would be circulated through e-mail by 15th May, 2013 and each member should confirm or communicate comments by 20th May, 2013. Thereafter, a convenient date would be fixed for presentation of the report to Hon'ble Minister for Water Resources before 31st May, 2013. He also thanked the Chairman and other members of the Drafting Committee for their valuable contribution in drafting of draft National Water Framework Bill 2013.

The Chairman placed on record his appreciation for the support received from Special Secretary (WR) and his team of Officers and expressed a deep sense of satisfaction in working with the expert members of the Committee. The draft National Water Framework Bill would actually help State Governments in achieving their mandates and hoped that the Bill would get support from all stakeholders.

The meeting ended with vote of thanks to the Chairman.

**MINUTES OF THE FOURTH MEETING OF THE COMMITTEE FOR DRAFTING OF
NATIONAL WATER FRAMEWORK LAW HELD ON 22nd APRIL, 2013 IN NEW DELHI**

LIST OF PARTICIPANTS

1. Dr. Yoginder K. Alagh	Chairman
2. Sh. G. Mohan Kumar, Additional Secretary (Water Resources)	Member
3. Sh. Sushil Gupta, Chairman, CGWB	Member
4. Prof. Krishan Paul Singh	Member
5. Ms. Jyoti Sharma, President	Member
6. Ms. Urvilla Khatri, Joint Secretary (PP)	Invitee
7. Shri R.K. Jain, Chief Engineer, CWC	Invitee
8. Dr. S.C. Thambi, Member, CGWB	Invitee
9. Sh. M.K. Sinha, SJC (PP), Ministry of Water Resources	Convener
10. Shri Ashish Banerjee, Director (NWP), CWC	Invitee
11. Shri Anoop Nagar, Suptdg. Hydrogeologist, CGWB	Invitee

DRAFT NATIONAL WATER FRAMEWORK BILL 2013

Government of India
Ministry of Water Resources

DRAFT NATIONAL WATER FRAMEWORK BILL, 2013

A Bill to establish a framework with governing principles for protection, conservation and regulation of waters and for matters connected therewith and incidental thereto.

AND WHEREAS water is a limited natural resource that has to be protected and preserved for generations, calling for a continuous and cohesive action with proactive planning and taking of all appropriate measures for its sustainable management;

AND WHEREAS States have the right to frame suitable policies, laws and regulations on water and the Constitution of India provides for devolution of powers and responsibilities with regard to some of water related services to Panchayats and Municipalities;

AND WHEREAS different State legal interventions need to be to within a framework of governing principles for protection, conservation and regulation of waters so as to bring about the prudent, wise, equitable, socially just, conflict-free, efficient, and sustainable management of water;

AND WHEREAS the National Water Policy (2012), adopted by the National Water Resources Council, emphasizes the need to evolve a National Framework Law as an umbrella statement of general principles governing the exercise of legislative and/or executive (or devolved) powers by the Centre, the States and the local governing bodies, and thereby, making the tenets of such a consensual statement justiciable;

BE it enacted by Parliament in the Sixty Third year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

- 1 **Short Title, Extent and Commencement – (1)** This Act may be called the National Water Framework Act, 2013.

*Short title,
extent and
commencement*

(2) It applies in the first instance to the whole of the States of..... and the Union Territories; and it shall apply to such other States which adopt this Act by resolution passed in that behalf under clause (1) of Article 252 of the Constitution.

(3) It shall come into force, at once in the States of..... and in the Union Territories and on the date of adoption in any other State which adopts this Act under clause (1) of Article 252 of the Constitution.

2 In this Act, unless the context otherwise requires: —

Definitions

- (i) “Appropriate Government” means in relation to interstate rivers and river valleys, the Central Government and in relation to rivers confined to the territory of a State, the State Government; and as defined in the concerned legislation devolving powers to local bodies;
- (ii) “Aquifer” means an underground layer of water-bearing permeable rock or unconsolidated materials including gravel, sand and silt, from which groundwater can be extracted;
- (iii) “Base flow” means Groundwater seepage into a stream channel;
- (iv) “Common pool resource” means a natural resource which, by its nature and social practice, is such that it is available for use by all the members of a village or other group or community, without exclusions of any kind, and the use of which by any individual or group diminishes the availability for others;
- (v) “Community based institutions” means Panchayati Raj Institutions, Water Users Associations and other local governing bodies;
- (vi) “Corporatisation” means the conversion of a government body or agency into a company or corporation;
- (vii) “Ecological integrity” means the natural condition of water and other resources sufficient to ensure proper integration of biological, chemical and physical aspects of the aquatic and terrestrial environment;
- (viii) “Ecological needs” means water required for sustaining essential elements of environmental entities such as terrestrial and aquatic ecosystems;
- (ix) “Eligible Households” means the priority households, as identified by the appropriate Governments;
- (x) “Environment impact assessment” means an assessment of the possible positive or negative impacts that a proposed project may have on the environment, along with the social and economic aspects;

- (xi) "IndiaWRIS" means web based India Water resources Information System for water related data on geographical information system platform;
- (xii) "Integrated river basin development and management" means the process of formulating and implementing a course of action involving natural, agricultural, and human resources of a river basin therewith taking into account the social, economic and institutional factors operating in a river basin to achieve specific objectives.
- (xiii) "Livelihood" means an activity or occupation or employment including self-employment that provides sustenance at defined minimum levels to an individual or family but does not necessarily generate a surplus;
- (xiv) "Local Authority" means Panchayats, Municipalities, Corporations and other local governing bodies set up by Parliament or State Legislatures;
- (xv) "Non-point source of pollution" means pollution from diffuse sources, such as polluted runoff from agricultural areas draining into a river, or wind-borne debris;
- (xvi) "National Water Policy" means National Water Policy adopted by the National Water Resources Council in 2012 or in subsequent years along with modifications, as approved by from time to time;
- (xvii) "Overdrawal of groundwater" means drawal or extraction of groundwater in excess of average annual replenishable recharge of the aquifer;
- (xviii) "Pre-emptive needs" means the needs for water, such as for drinking water, sanitation and other needs, as may be prescribed, which has to be accorded highest priority and must be met before any other need;
- (xix) "Participatory Management" means and refers to the active association and involvement of the people or the community in policy-formulation, project-planning or implementation, or activity, scheme, programme, project or institutional arrangements of any kind;
- (xx) "Precautionary principle" means the principle that advocates the adoption of a cautious approach, including anticipatory preventive or mitigatory action, towards an activity that holds the possibility of causing harm to human beings or the environment, even if that possibility is not fully established scientifically, with the onus of proving that there will be no such harm resting on the proposer of the

activity;

(xxi) “Prescribed” means prescribed by rules made under this Act;

(xxii) “Principle of differential pricing” means different pricing of water for different uses and for different classes of users;

(xxiii) “Privatisation” means the transfer of a government body or institution or a public enterprise to private ownership, or the transfer of a governmental or public sector activity to a private body;

(xxiv) “Public trust” means the doctrine that the state holds natural resources in trust for the community;

(xxv) “River basin” means the area drained by a river and its tributaries, that is, the total area within which whatever precipitation or runoff occurs will, except for evaporation and seepage into the ground, eventually find its way to the river or one of its tributaries;

(xxvi) “Sustainable use” means the use of water that is consistent with the long-term sustainability of that resource and takes into account needs of future generations;

(xxvii) “Water” and “Water Resources” include both surface and ground water resources;

(xxviii) “Water footprint” means the total volume of water used direct or in the form of goods and services embodying water, by an individual or community or country as a whole, or by an industry or business in its production or other commercial activity;

(xxix) “Water-harvesting” means capturing and conserving rainwater or retarding run-off through various structures either for the direct use of the stored waters or for re-charging groundwater aquifers; and

(xxx) “Watershed” means the ridge or line of high land separating two areas such that rainwater falling on one side of the line drains on that side and cannot pass to the other side; by extension, the area bounded by the ridge; generally used to denote a small local area bounded by low ridges, but sometimes also a large area bounded by high hills, including a river-basin.

Words and expressions used and not defined in this Act and/or whenever there is a doubt or ambiguity in

interpreting the words and phrases used in this act, for which adequate guidance is not available from the context and from the Chapter on the definitions, the principle of interpretation to be followed may be sought from the National Water Policy and the Preamble to this Act.

Chapter II

BASIC PRINCIPLES FOR WATER MANAGEMENT

- 3 **Basic Principles for Water Management –** (1) The planning and management of water resources shall be integrated appropriately with the management of all resources and shall take into account in an integral manner the local, regional, State and national needs.

*Basic Principles
for Water
Management*

(2) Local Authorities and the appropriate Government shall take all measures to plan and manage water resources equitably, sustainably, and in a socially just manner.

(3) The planning, management and regulation of water resources shall be carried out by the appropriate Local Authorities and the appropriate Government in a manner that is transparent, accountable and participatory.

(4) Water is a common pool resource of the community and shall be managed, protected and preserved as such by community based institutions.

(5) The state holds water in public trust for the people and is obliged to protect water resources as a trustee for the benefit of all.

Provided that the responsibility of the state as public trustee shall remain even if some of the functions of the state in relation to water are entrusted to any public or private agency.

(6) Water in its primary aspect as a sustainer of human life shall take precedence over other uses of water, such as agricultural, industrial, commercial, and other uses.

(7) The appropriate Government shall take all measures to protect the ecological integrity necessary to sustain ecosystems dependent on waters.

Provided that a portion of river flows shall be kept aside to meet ecological needs ensuring that the low and high flow releases are proportional to the natural flow regime, including base flow contribution in the low flow season through regulated ground water use.

(8) A river basin shall be considered as the basic hydrological unit for planning, development and management of water resources.

(9) Water-use decisions shall have due regard to the land-use appropriate to the relevant area, and in turn, the proper land-use for an area shall be decided with due regard to the availability of water.

(10) Where water sources, catchments or drainage paths have already been encroached upon, efforts shall be made to stop further encroachment and reverse the adverse impact already made, to the extent possible.

(11) Institutions related to the governance of the water sector should take into account the concerns and recommendations of the National Water Policy.

(12) Demand management of water needs shall be given priority, especially through;

(a) evolving an agricultural system which economizes on water use and maximizes value from water, and

(b) bringing in maximum efficiency in use of water and avoiding wastages.

(13) Inter-basin transfer of water shall be considered on the basis of merits and historical uses of each case after evaluating the environmental, economic and social impacts of such transfers.

(14) There shall be nationally standardized water footprints for every activity or product and it shall be the duty of the appropriate Government at all levels, the citizens, and all categories of water-users, to endeavour to reduce their water footprint at every level.

Provided that the demand of water for various uses shall be assessed in accordance with the standardized water footprints, determined under this section, and such assessment shall be appropriately incorporated in inter-sectoral, inter-regional and inter-State allocation of water and in preparation of Master Plan as per Section 7.

(15) Water quality and quantity are interlinked and need to be managed in an integrated manner, consistent with broader environmental management approaches inter-alia including the use of economic incentives and penalties.

(16) Decentralised local rainwater-harvesting and micro-watershed development shall be adopted for water management along with recognizing, empowering and encouraging local initiatives.

(17) All efforts shall be made through appropriate institutional arrangements at all levels to prevent a water-related dispute or conflict from arising between or among different water-uses, or different groups or classes of

users, or different areas, and when a dispute or conflict does arise, to settle it through negotiations, conciliation or mediation, or other such means as far as possible.

(18) Water shall increasingly be subjected to allocation and pricing on economic principles to ensure its development costs, efficient use and reward conservation;

Provided that the principle of differential pricing of water may be retained for the pre-emptive uses of water for drinking and sanitation; and high priority allocation for ensuring food security and supporting livelihood for the poor.

Provided that equitable access to water for all and its pricing, for drinking and other uses such as sanitation, agricultural and industrial, shall be arrived at after wide ranging consultation with all stakeholders through independent statutory Water Regulatory Authority, set up by each State.

Chapter III **RIGHTS TO WATER, PRESERVATION OF QUALITY** **AND WATER PRICING**

- 4 **Right to Water-** (1) Every individual has a right to a minimum quantity of potable water for essential health and hygiene and within easy reach of the household.

*Providing basic
right to water*

(2) The minimum quantity of potable water shall be prescribed by the appropriate Government after expert examination and public consultation.

Provided that the minimum quantity of potable water shall not be less than 25 litres per capita per day.

(3) The state's responsibility for ensuring people's right to water shall remain despite corporatisation or privatisation of water services and the privatisation of the service, where considered necessary and appropriate, shall be subject to this provision.

(4) The appropriate Government shall specify the quality standards of water supply specified for different uses, such as drinking, other domestic uses, livestock, irrigation, industries, etc., and shall ensure that these standards are fully complied with.

- 5 **Preservation of Water Quality-** (1) Subject to the provisions of the Environment (Protection) Act 1986 and Water (Control and Prevention of Pollution) Act 1974, the approach to the prevention and control of pollution and contamination of water sources shall include: (i)

*Preservation of
Water Quality*

29 of 1986
6 of 1974

minimising the generation of waste in all water uses; (ii) reducing non-point source of pollution; (iii) recovering, to the extent possible, water for some uses from waste; and (iv) ensuring that nothing that does not meet certain stringent quality standards, as may be prescribed, is allowed to enter water sources.

(2) Water quality in all rivers, streams, surface water bodies, aquifers and other water sources throughout the country, shall be protected and improved to conform to such standards as may be prescribed.

- 6 **Water Pricing** – (1) An Independent statutory Water Regulatory Authority shall be established by every State for ensuring equitable access to water for all and its fair pricing, for drinking and other uses such as sanitation, agricultural and industrial.

*Fixation of
water pricing*

Provided that decisions of the Water Regulatory Authority shall be subject to judicial review.

(2) Water charges shall be determined on volumetric basis and shall be reviewed periodically in order to meet equity, efficiency and economic principles.

(3) The Recycle and reuse of water, after treatment to specified standards, shall also be incentivized through an appropriately planned tariff system.

(4) The principle of differential pricing for water for drinking and sanitation; and for ensuring food security and supporting livelihood for the poor may be adopted.

Provided that the appropriate Government may provide minimum quantity of water for drinking and sanitation free of cost to eligible households, being part of pre-emptive need.

Provided that available water, after meeting the pre-emptive needs, shall increasingly be subjected to allocation and pricing on economic principles so that water is not wasted in unnecessary uses and could be utilized more gainfully and water infrastructure projects are made financially viable.

Chapter IV

WATER RESOURCES PROJECTS: PLANNING AND MANAGEMENT

- 7 **Integrated River Basin Development & Management-**
(1) The appropriate Government shall develop, manage and regulate basins of intra-State rivers through specific legislations enacted for such purpose and shall cooperate

*Integrated River
Basin
development &
Management*

and participate constructively in planning and management of inter-State rivers along with other co-basin States.

(2) River basin or sub-basin shall be developed with unified perspectives of water and ensuring holistic and balanced development of both the catchment and the command areas, following the principle of integrated water resources management.

(3) Optimal utilisation of waters within a river basin shall be ensured, with due regard to the reasonable present and future needs for life and livelihoods, appropriate economic activity, social justice and equity, and ecological sustainability.

(4) The Central Government shall set up an institution at the national level for promotion, regulation and evolving mechanisms for efficient use of water at basin/sub-basin level.

(5) The State may set up appropriate organizations for each intra-State river basin or sub-basin for planning and management of water resources as per provisions of this Act.

(6) Each river basin organization set up by the Centre or the State(s), shall prepare a status report of the river basin or sub-basin comprising such information as may be prescribed and the status report, so prepared, shall be reviewed and updated after every five years after due consultation with all other planning agencies and stakeholders.

Provided that the status report, at its all stages, shall remain in public domain, and shall be available on the website.

(7) Each river basin/sub-basin organization shall ensure that a River Basin Master Plan is produced for the river basin under its jurisdiction and that such Plan is based on the status report for the river basin/sub-basin as prepared in terms of sub-section 6.

(8) The environmental protection plan, including cumulative environment impact assessment, for an area shall form part of the River Basin Master Plan as prepared in terms of sub-section 7.

- 8 **Water Resources Information System** – (1) The Central Government shall develop and maintain a web based Water Resources Information System (IndiaWRIS) on Geographical Information System Platform integrating water resources and other related data with satellite imageries through use of state-of-the-art Information

*Development
and
Maintenance of
web based
Water
Resources
Information
System on*

Technology.

*Geographical
Information
System
Platform*

(2) A National Water Informatics Center shall be established to collect, collate and process hydrologic data regularly from all over the country, conduct the preliminary processing, and maintain in open and transparent manner in the IndiaWRIS.

(3) An appropriate agency shall be set up for each river basin/sub-basin to collect and collate all data on regular basis with regard to rainfall, river flows, area irrigated by crops and by source, utilizations for various uses by both surface and ground water and to publish water accounts on ten daily basis every year for each river basin with appropriate water budgets and water accounts based on the hydrologic balances.

Provided that the agencies shall maintain, supply and feeding of water related data at prescribed intervals into IndiaWRIS.

(4) The agencies established pursuant to sub-section (3) shall be networked with the nationwide network connecting central server hosting IndiaWRIS.

- 9 **Management of Floods and Droughts** - (1) The appropriate Government and local Authority shall strive towards mitigating water related disasters like floods and droughts, through structural and non-structural measures, with emphasis on rehabilitation of natural drainage system, coping mechanisms and preparation and periodic updating of emergency action plans / disaster management plans.

*Management of
floods and
droughts*

(2) The appropriate Government and local Authority shall expand flood forecasting extensively across the country and modernize flood forecasting using real time data acquisition system and linked to forecasting models.

(3) Operating procedures for reservoirs shall be evolved and implemented in such a manner to have flood cushion and to reduce trapping of sediment during flood season on the basis of sound decision support system.

- 10 **Project Planning and Management** – (1) States shall take prior and continuing assessment of the impact of programmes, projects or activities that may have a significant effect on the environment or on the sustainable development of waters.

*Water
Resources
Projects
Planning and
Management*

(2) All water resources projects shall conform to the River Basin Master Plan under section 7(7), applicable efficiency benchmarks and shall take into account all social and environmental aspects in addition to techno-economic considerations of the project in consultation with project

affected and beneficiary families.

(3) Project planning and management of water resources shall be on the basis of regional agro-climatic considerations taking into account possible future scenario, including climate change, after maximising water use efficiency and benefits from the locally available water resources.

(4) Planning and management of water resources structures, such as, dams, flood embankments, tidal embankments, among others, shall incorporate coping strategies for possible future scenario including climate changes.

(5) Planning and execution of all components of water resources projects shall be carried out in a pari-passu manner with concurrent monitoring at project and State levels with a view to prevent time and cost over-runs.

(6) Local authorities, like Panchayats, Municipalities, Corporations, and Water Users Associations, wherever applicable, shall be empowered and involved in planning and management of the projects.

Provided that the unique needs and aspirations of the Scheduled caste and Scheduled Tribes, women and other weaker sections of the society shall be given due consideration.

11 Institutional Arrangements for Water Sharing – (1)

Appropriate institutional arrangements shall be established at all levels within the State and beyond up to an inter-State river-basin, to obviate and resolve emerging differences through negotiations, conciliation or mediation, or other such means, at the earliest stages and before the differences become acute, so as to avoid recourse to adjudication as far as possible.

*Institutional
Arrangements
for Water
Sharing*

(2) The appropriate Government shall lay down principles for allocation of water resources for amicable resolution of differences and disputes.

(3) Data of all kinds with the exception of classified data, shall be freely shared by the States concerned and put in the public domain.

12 Groundwater Regulation and Management –

(1) Groundwater shall be protected, conserved and regulated through appropriate laws and by adequate and efficient measures using precautionary approach, so as to protect available resources and promote sustainable groundwater use.

*Groundwater
Regulation and
Management*

(2) The regulation of groundwater shall be in consonance

with the principles of non-discrimination, equity, principle of subsidiarity and shall conform to the constitutional provisions for decentralisation of powers and functions.

(3) States shall manage groundwater conjunctively with surface water of any basin of which it is a part, taking into account any interconnections between aquifers or between an aquifer and a body of surface water, as well as any impact on aquifers caused by activities within the States jurisdiction.

(4) The extraction of groundwater in any manner in any area shall be regulated through community based institutions with due regard to the hydro-geological and ecological characteristics and features of the aquifer as a whole.

Provided that such users and community based institutions shall be empowered to take information based decisions based on aquifer information and extraction data shared with them.

(5) The over-drawal of groundwater shall be minimized by regulating the use of electricity for its extraction, including through appropriate pricing and separate electric feeders for pumping ground water for agricultural use.

(6) The appropriate Government shall demarcate groundwater recharge zones by identifying critical natural recharge areas of an aquifer and those areas that require special attention with regard to the recharge of groundwater and including areas that are affected by contaminants and saline water ingress.

(7)The groundwater recharge zones under sub section (6) shall be accorded the highest priority in terms of groundwater protection and regulation and the appropriate government shall take all possible measures to conserve and protect such groundwater recharge zones.

(8) The appropriate Government and local Authority shall take all possible measures to protect and improve the quality of groundwater, including measures for prevention of pollution and for remediation from groundwater contamination.

(9) The appropriate Government and local Authority shall ensure planning and implementation of necessary safeguards to protect the quality of groundwater while giving licenses for mining and industrial activities.

(10) The appropriate Government and local Authority shall keep all groundwater related information, such as, groundwater levels, water quality, local aquifer maps and groundwater utilization, in public domain.

- 13 **Urban Water Management** – (1) The appropriate Government and local Authority shall ensure conformance to the Service Level Benchmarks for water supply, sanitation, solid waste management and storm water drainage, as may be prescribed.

*Urban Water
Management*

(2) Urban water supply shall be 100% metered and priced on volumetric basis.

Provided that supply of minimum water to Below Poverty Line populations may be subsidised by the appropriate government.

Provided further that water accounts and water audit reports indicating leakages and pilferages, shall be published to sensitize communities for reduction of non-revenue water taking into due consideration the associated social issues.

(3) The appropriate Government and local Authority shall ensure that urban water supply and sewage treatment schemes are integrated and executed simultaneously with provision of sewerage charges included in the Water supply bills.

(4) The appropriate Government and local Authority shall encourage reuse of urban water effluents from kitchens and bathrooms, after primary treatment, in flush toilets ensuring no human contact.

(5) Water resources projects and services shall be managed with community participation.

Provided that for improved service delivery on sustainable basis, the State Governments and urban local bodies may associate private sector in public private partnership mode with penalties for failure, regulatory control on prices charged and service standards and with full accountability to democratically elected local bodies.

- 14 **Industrial Water Management** – (1) Industries in water short regions shall be allowed to either withdraw only the make up water or have an obligation to return treated effluent to a specified standard back to the hydrologic system.

*Industrial Water
Management*

(2) Pricing of water for industry shall include efficiency costs and capital charges.

(3) Subsidies and incentives shall be implemented to encourage recovery of industrial pollutants including recycling and reuse that are otherwise capital intensive.

(4) Major water using industries and businesses

consuming water more than one Million Cubic Meter in a year shall file annual 'Water returns' containing information, such as, water utilisation per unit produce, effluent discharge details, rain water harvested, water reuse details and fresh water consumption.

*Participatory
Water
Management*

15 **Participatory Water Management** – (1) The appropriate government shall recognise, undertake and encourage a participatory approach to water management at all levels through appropriate laws, regulations and administrative measures including establishment of Water Users Associations.

(2) Water Users Associations shall be accorded statutory powers to collect and retain a portion of water charges after paying for the water charges, as may be fixed by the Water Regulatory Authority, manage the volumetric quantum of water allotted to them and maintain the distribution system in their jurisdiction.

Provided that the Water Users Associations shall be given the freedom to fix rates subject to floor rates determined by Water Regulatory Authority.

Provided further that adequate provisions shall be made to ensure financial discipline and sustainability of such Water Users Associations.

(3) The decisions for conservation, management and regulation of water shall be based on the principle of subsidiarity and such decisions shall be made with the involvement of users, especially women, in the planning and implementation of water projects.

(4) The appropriate government shall specify the nature of administrative and economic relationship between the Panchayat or Municipalities, as the case may be, and the Water Users Associations at the local level.

(5) The appropriate government shall establish a regular system for water related data sharing, sensitization and capacity building of Panchayats, Municipalities and Water Users Associations and for their involvement in planning and implementation of water resources projects so as to ensure conservation of water and improvement of water quality.

Chapter V

PROMOTION OF INNOVATION AND TECHNOLOGY

16 **Promotion of Innovation and Technology** – (1) The appropriate Government shall promote indigenous knowledge and develop technologies for conservation of water resources compatible with Indian social-cultural-

*Promotion of
Innovation and
Technology*

economic ethos.

(2) The appropriate Government shall promote better land-soil-water management with scientific inputs from local research and academic institutions, such as adoption of compatible agricultural strategies and cropping patterns and improved water application methods, such as, land leveling, drip, sprinkler irrigation.

(3) The appropriate Government shall promote continuing research and advancement in technology to address issues in the water sector.

(5) The appropriate Government shall encourage, recognize and award innovations in water resources sector.

Chapter VI

CONVERGENCE OF SCHEMES

- 17 **Convergence of Schemes–** (1) The appropriate Government shall take all possible measures to synergise and integrate different development schemes including schemes for water conservation, sanitation and improvement of water quality at Panchayat or Municipality, as the case may be, level and further at sub basin and basin level.

Provision of convergence of different schemes of Central/state Governments at the Panchayat/ Municipality level

(2) The appropriate Government shall also specify enabling institutional framework for effective convergence of schemes.

Chapter VII

COORDINATION AND POLICY SUPPORT MECHANISM

- 18 **Coordination and Policy Support Mechanism–** (1) The Centre and the State Governments shall set up a High Powered Committee at the Centre and in each State, respectively, to carry out following activities;

Provision for setting up of a coordination and policy support mechanism between different agencies dealing with water

- (2) To prepare a perspective plan for sustainable development of water resources ensuring water security for the years 2025 and 2050 for each District, State and for the entire country.
- (3) To provide support to River Basin Authorities, State Governments and appropriate local bodies, in operational water resources planning system studies, including consulting services.
- (4) To prepare study reports, papers, advisories and other documents on issues like state of the art techniques in India and abroad on issues like water footprints and efficiency benchmarks, standards,

water regulation, water rights, water pricing, project planning, climate change issues, efficient use of water and convergence of the water sector with land use, agriculture, urbanization and energy development.

- (5) To prepare monitoring reports on national and global experience on successful experiences in complex areas of water development, including studies of successes of water projects of a difficult nature with lessons on level of appropriate government functioning in federal countries, dispute resolution mechanisms, measurement of water flows in complex delivery systems, community and NGO involvement in problem resolution and use of advanced technologies in water projects and planning.
- (6) To support and prepare studies on flood forecasting and amelioration, hydrology and sensitive environmental zones, including mountain regions ,coastal regions and port towns; and
- (7) To prepare studies on any other area relating to the water sector that it may consider important or that may be referred to it by the appropriate Government.

Chapter VIII

MISCELLANEOUS

- 19 **Enforcement of the Act** – (1) States shall, where appropriate, enact laws and regulations to accomplish the purposes set forth in this Act and shall adopt adequate and efficient administrative measures, including Management and implementation Plans for the enforcement of this Act.

*Enforcement of
the Act*

Provided that the existing legislations both at the Central as well as State level shall be reviewed and amended, wherever appropriate, so as to conform to the principles and provisions of this Act.

(2) The appropriate Governments shall take all steps to ensure the availability of effective judicial remedies for persons whose legal rights have been violated including legal rights arising out of this Act, and who suffer or are under a serious threat of suffering damage arising from programs, plans, projects, or activities relating to water management.

(3) Remedies under this Section shall, as appropriate, provide for preventive remedies to prevent damage arising from programs, plans, projects, or activities relating to water management; compensation for damage; criminal

prosecution of offenders and any other appropriate remedy in accordance with the provisions of any other law for the time being in force.

- 20 **Act to have overriding effect-** The provisions of this Act or the Plans made there under shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law. *Act to have overriding effect*
- 21 **Power of the Central Government to make Rules** –The Central Government may by a Notification, make rules to carry out the provisions of this Act. *Power of the Central Government to make Rules*
- 22 **Power of the State Government to make Rules** –The State Government may by a Notification, and consistent with this Act and the rules made by the Central Government make rules to carry out the provisions of this Act. *Power of the State Governments to make Rules*
- 23 **Laying of Rules and Plans** –(1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty sessions, and if, before the expiry of session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made the rule shall have thereafter have effect only in such modified form or be of no effect, as the case may be; so, however that any such modification or annulment shall be without the prejudice to the validity of anything previously done under that rule. *Laying of Rules and Plans*
- (2) Every rule or Plan made by the State Government under this Act shall, as soon as, may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of State Legislature, before the House.

DRAFT NATIONAL WATER FRAMEWORK BILL, 2013

STATEMENT OF OBJECTS AND REASONS

1. During consultation meetings for evolving National Water Policy (2012) with various stakeholders, the need to evolve a Framework Law as an umbrella statement of general principles governing the exercise of legislative and/or executive (or devolved) powers by the Centre, the States and the local governing bodies emerged. It would lead the way for essential legislation on water governance in every State of the Union and devolution of necessary authority to the lower tiers of government to deal with the local water situation. Such a framework law must recognize water not only as a scarce resource but also as a sustainer of life and ecology. Therefore, water, particularly, groundwater, needs to be managed as a community resource held, by the state, under public trust doctrine to achieve food security, livelihood, and equitable and sustainable development for all.
2. The States have the competence to make laws, formulate and implement plans and schemes for development of water resources for water supply, irrigation, hydropower etc. Several States have enacted different laws also, but in all cases, these laws do not address the present concerns in the water resources sector and in a holistic manner. Thus, there is a need to evolve common denominators of water governance to achieve water security and sustainability keeping the needs of future generations in view. We need to think of an overarching minimal national framework which would provide background structure to reforms in water governance. This means that a set of fundamental principles should guide water governance throughout the country irrespective of the required local details, though important in practice. These principles need to be enshrined in a legal framework applicable throughout the country, which would needless to say, be evolved by the States themselves through consensus.
3. It is this recognition of the need for a minimal national consensus on certain basic perceptions, concepts and principles that led to the adoption of the National Water Policy (NWP) of 1987, 2002 and 2012. However, a national water policy has no legal status. A national water law is, therefore, necessary to make the tenets of such a consensual statement justiciable.
4. The following notes on various clauses explain the important provisions of the Bill: —

Clause 1 - This clause provides for short title, extent, commencement and application.

Clause 2 - This clause defines certain terms used in the Bill. It also provides that the principle of interpretation to be followed may be sought from the National Water Policy and the Preamble to this Act.

Clause 3 – This clause provides for the basic principles for water management, which must be followed by the appropriate Government in formulation and implementation of any scheme or law regarding water.

Clause 4 - This clause provides for right to a minimum quantity of potable water for essential health and hygiene and within easy reach of the household to every individual allowing for minimum quantity of potable water to be prescribed by the appropriate Government after expert examination and public consultation, subject to a minimum of 25 litres per capita per day.

Clause 5 – This clause provides for preservation of water quality in all rivers, streams, surface water bodies, aquifers and other water sources inter-alia through prevention and control of pollution and contamination of water sources.

Clause 6 - This clause provides for principles and mechanisms for fixation of water prices.

Clause 7 - This clause provides for development, management and regulation of River Basins, largely cutting across States, on the principles of Integrated Water Resources Development & Management along with preparation of Status Report and Master River Basin Management Plan through a transparent consultative process.

Clause 8 - This clause provides for development and maintenance of web based Water Resources Information System on Geographical Information System Platform with a nationwide network.

Clause 9 - This clause provides for management of water related disasters like floods and droughts, through structural and non-structural measures, with emphasis on rehabilitation of natural drainage systems coping mechanisms and preparation and periodic updating of emergency action plans / disaster management plans.

Clause 10 - This clause provides for project planning and management of water resources, as per the Master River Basin Management Plan, on the basis of regional agro-climatic considerations taking into account possible future scenarios (including climate change) after maximising water use efficiency and benefits from the locally available water resources.

Clause 11 - This clause provides for establishment of appropriate institutional arrangements to obviate and/or resolve emerging differences, largely inter-States, through negotiations, conciliation or mediation, or other such means along with laying down principles for allocation of water resources for amicable resolution of differences and disputes.

Clause 12 - This clause provides for protection, conservation and regulation of ground water through adequate and efficient measures using the precautionary approach.

Clause 13 - This clause provides for conformance to the Service Level Benchmarks for water supply, sanitation, solid waste management and storm water drainage. This Clause also provides for management of water resources projects and services through community participation along with provision for association of private sector in public private partnership mode for improvement in public service delivery and capacity building.

Clause 14 - This clause provides for industrial water management stipulating obligation of industries to either withdraw only the make up water or to return treated effluent to a specified standard back to the hydrologic system with filing of Annual Water Returns' containing information, such as, water utilisation per unit produce, effluent discharge details, rain water harvested, water reuse details and fresh water consumption.

Clause 15 - This clause provides for participatory water management with statutory powers to Water Users Associations to collect and retain a portion of water charges after paying for the water charges, to manage the volumetric quantum of water allotted to them and to maintain the distribution system in their jurisdiction.

Clause 16 - This clause provides for promotion of innovation and technology in water sector with better land-soil-water management with scientific inputs from local research and academic institutions, through adoption of compatible agricultural strategies and cropping patterns and improved water application methods, such as, land leveling, drip, sprinkler irrigation.

Clause 17 - This clause provides for synergization and integration of different development schemes including schemes for water conservation, sanitation and improvement of water quality at Panchayat/Municipality level and further at sub basin /basin level.

Clause 18 - This clause provides for setting up of a coordination and policy support mechanism between different agencies dealing with water in the Centre and in every State.

Clause 19 - This clause provides for enactment of laws and regulations to accomplish the purposes set forth in this Act through adoption of adequate and efficient administrative measures, review of existing legislations and effective judicial remedies.

Clause 20 - This clause provides for overriding effect of this Act notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law.

Clause 21 – This clause empowers the Central Government to make rules, through Notification, to carry out the provisions of this Act.

Clause 22 – This clause empowers the State Governments to make rules, through Notification, consistent with this Act and the rules made by the Central Government, to carry out the provisions of this Act.

Clause 23 - This clause provides for laying of every rule made by the Central Government before each House of Parliament and every rule or plan made by the State Government before each House (or only one House, as the case may be) of the State Legislature and to have effect till such rules are modified or annulled by the Parliament or the State Legislature as the case may be.

FINANCIAL MEMORANDUM

The National Water Framework Bill, 2013 seeks to lay down an umbrella statement of general principles governing the exercise of legislative and/or executive (or devolved) powers by the Centre, the States and the local governing bodies, and thereby, making the tenets of such a consensual statement justiciable. The administrative set-up already exists for carrying into effect the provisions of the existing Act and the same set up shall continue for the implementation of the provisions of the present Bill, if enacted. As such, the Bill, if enacted and brought into force, would not involve any additional expenditure from the Consolidated Fund of the India or the State(s).