

JAL MANTHAN – 2

**Integrated Approach for Sustainable Water Management
(22-23 February, 2016)**

**DRAFT NATIONAL WATER FRAMEWORK LAW &
DRAFT RIVER BASIN MANAGEMENT BILL**

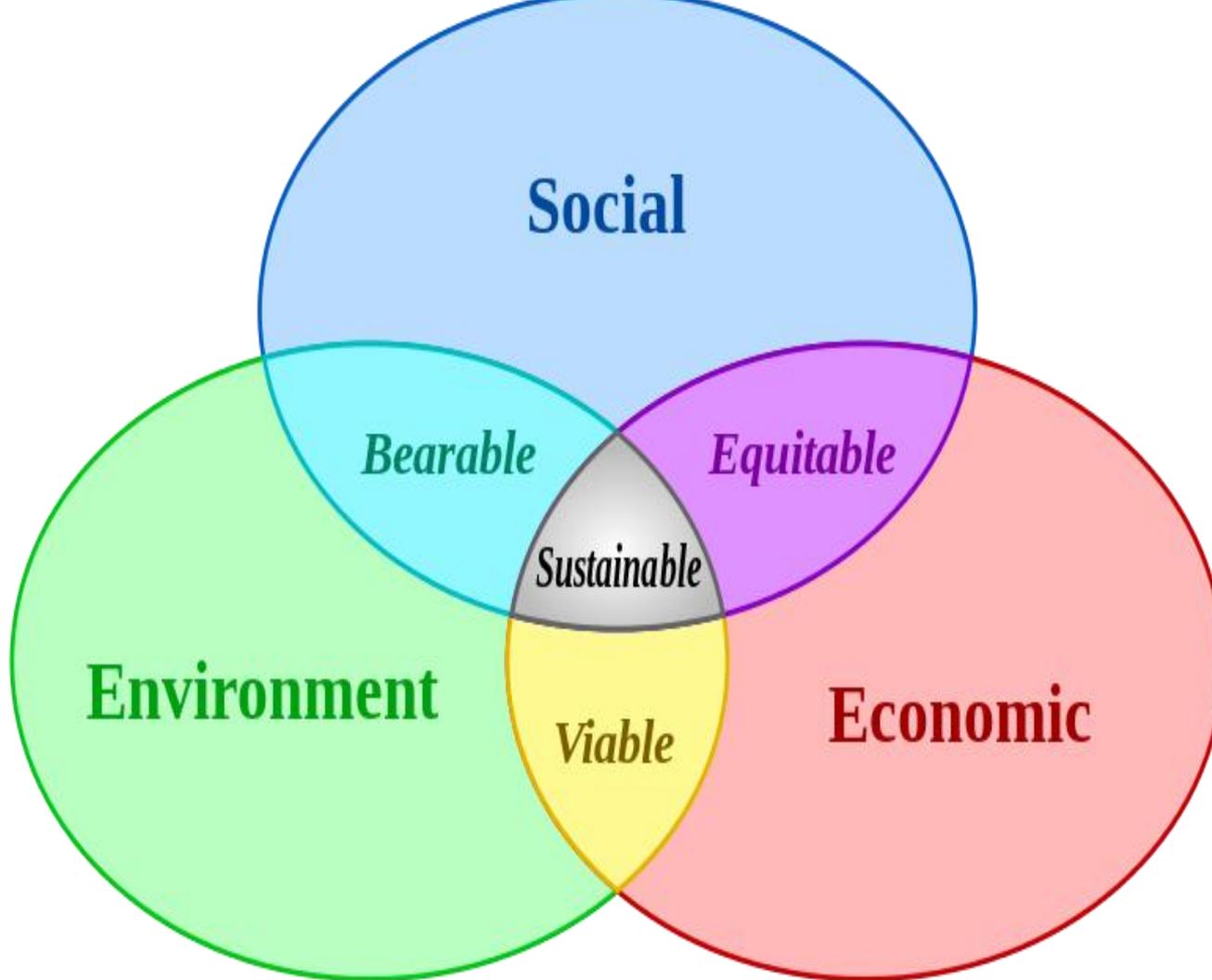
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Draft National Water Framework Law and draft River Basin Management Bill aims towards legislative reforms for sustainable management of water resources

Legislative provisions on water

Entry 17; State List (List II) - 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.

- No exclusive jurisdiction

Entry 56; Union List (List I) - 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

Entry 20; Concurrent List (List III) – Economic and social planning

Article 249 – Parliament empowered to make laws on matters in the State List, if Rajya Sabha resolves (but this has limitations)

Legislative provisions on water

Article 252 - Parliament may be empowered to legislate on State matters for two or more States by consent and such legislation may be adopted by any other State

- *Water (Prevention and Control of Pollution) Act, 1974 (started with 12 States and now adopted by all States)*
- *Dam Safety Bill (in process)*

Art 253 - Parliament has power to make any law for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body

For example, Environment Protection Act, Air Pollution Act

- SUSTAINABLE DEVELOPMENT GOALS

Article 257(1) - authorizes Centre to give directions to a State

Why a Central Law ?

- 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. There are more than 300 Acts on water. But, most of these laws do not address the present concerns in a holistic manner.
- During water policy consultation process, most of the States have indicated that **they need a greater push from the Centre to carry forward water sector reforms.**
- 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.

Should 'Water' be brought in Concurrent List ?

- **Growing demand to bring water in the concurrent list**
 - to ensure national perspective on water management;
 - to avoid inter-State disputes; and
 - tendencies to use more water (in excess of justified needs through efficient use) only to claim more apportionment of water in inter State rivers.
- **However, these have been opposed by most of the States.**
- **This issue has also been examined by the two Commissions on Centre State Relations chaired by **Justice R.S. Sarkaria** (1983-88) and **Justice M.M. Punchhi** (2007-10). Both Commissions concluded that **existing provisions are adequate and there is no need to bring water in the concurrent list.****

NO CENTRAL LAW BUT NATIONAL WATER POLICY

National Development Council (36th meeting held on March 14, 1982) 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.

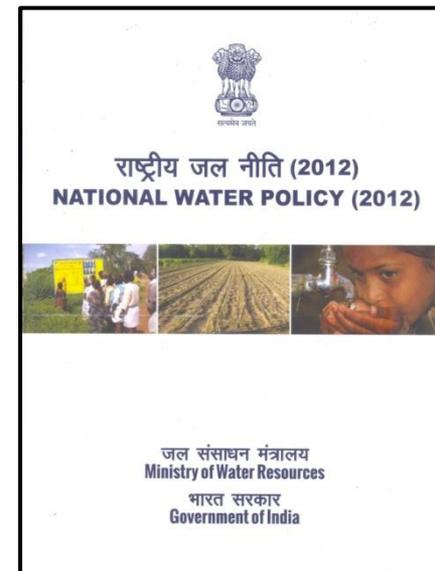
Accordingly, Government of India, by resolution dated 10th March, 1983 set up **National Water Resources Council (NWRC)**

Chairman : Prime Minister

Vice Chairman: Union Minister of WR, RD & GR

Members : Union Ministers dealing with water,
Minister of State for Water Resources
Chief Ministers of all States
Lt. Governors/Administrators of all UTs

Secretary : Secretary (WR, RD & GR)



National Commission for Integrated Water Resources Development (NCIWRD) (1999)

- ✓ carried out a review of legal and institutional framework for the water sector in the country.
- ✓ observed that there is no legal backing for many of the vital concerns that have arisen in the field of water resources development.
- ✓ emphasized the need of formulation of a comprehensive **National Water Code**, that is, not one single law but an integrated set of water laws.

Twelfth Five Year Plan Document

- ✓ Highlights that different State Governments tend to adopt different positions and such legal divergences tend to render the resolution of inter-State river-water conflicts even more difficult
- ✓ A national statement of the general legal position and principles that should govern such cases seems desirable.
- ✓ 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.**
- ✓ The idea of a national water law is not something unusual or unprecedented. Many countries in the world have national water laws or codes.

National Water Policy (2012)

2.1 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**.**

2.2 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**.**

Public Accounts Committee (2014-15)

Eighth Report on “Water Pollution in India” (11 Dec., 2014)

“3. ...The National Water Policy, 2012 recognizes the rights of the States to frame suitable policies, laws and regulation on water and also emphasized on the need to evolve a broad over-arching national legal framework of general principles on water. The Committee concur with the recommendation of the DRSC (Departmentally Related Standing Committee) on Water Resources and urge the Government to take urgent action to set the stage for enactment of a comprehensive national legislation on water after evolving a broad national consensus to bring water in the Concurrent list and formulate an over-arching national legal framework for effective water management, conservation, development and equitable distribution with adequate provisions for devolution of necessary authority to the lower tiers of government...”

Draft National Water Framework Bill

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

SALIENT FEATURES:-

- ✓ Establishes 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, which should lead the way for essential legislation on water governance in every State and devolution of necessary authority to the lower tiers of government to deal with the local water situation.

SALIENT FEATURES – contd..

- ✓ Proposes **Basic Principles for Water Management** to bring different State legal interventions within a framework of governing principles and alignment of existing legislations both at the Central as well as State level
- ✓ Emphasis on **rejuvenating river system** with community participation, ensuring (a) “**Aviral Dhara**”- continuous flow in time and space including maintenance of connectivity of flow in the river systems; (b) “**Nirmal Dhara**”- un-polluted flow so that the quality of river waters isn't adversely affected by human activities; and (c) “**Swachh Kinara**” – clean and aesthetic river banks,
- ✓ It recognizes that **healthy river system is essential for sustainable development** and emphasizes on **appropriate economic models** to ensure sustainability of recycle, reduce and reuse of water resources, so that **developmental needs do not get compromised.**

SALIENT FEATURES – contd..

- ✓ It proposes **right to a minimum quantity of potable water** for essential health and hygiene and within easy reach of the household, which may be provided at subsidized cost to eligible households, being part of pre-emptive need.
- ✓ It proposes **establishment of an independent statutory Water Regulatory Authority** by every State for ensuring equitable access to water for all and its fair pricing on volumetric basis, for drinking and other uses such as agricultural and industrial.
- ✓ It proposes that the **groundwater shall be protected, conserved and regulated through appropriate laws** and by adequate and efficient measures using precautionary approach, with active participation of **Community Based Institutions**.

SALIENT FEATURES – contd..

- ✓ It proposes that all water resources projects shall conform to the **River Basin Master Plan**, consistent with river rejuvenation efforts to be prepared, applicable efficiency benchmarks and shall take into account all social and environmental aspects in addition to techno-economic considerations.
- ✓ It proposes **conformance to the Service Level Benchmarks** for water supply, sanitation, solid waste management and storm water drainage, as may be prescribed.
- ✓ It proposes that industries 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 and to file **“Annual Water Returns”**.

SALIENT FEATURES – contd..

- ✓ It proposes that the appropriate Government 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 level, as the case may be, and further at sub basin and basin level.
- ✓ It proposes setting up of a **High Powered Committee at the Centre and in each State for coordination and policy support mechanism** between different agencies dealing with water.
- ✓ In an inter-State river system, all basin States shall cooperate in good faith in the equitable, prudent and holistic use of the river waters for the benefit of all and to settle it through **negotiations, conciliation or mediation.**

Draft River Basin Management Bill

*A Bill to provide for the establishment of River Basin Authorities for the regulation and sustainable development of Inter-State Rivers and River Valleys with **active participation of Basin States** and for matters connected therewith and incidental thereto*

- replacement of **River Boards Act, 1956**

SALIENT FEATURES:-

✓ It proposes principles of participation, cooperation, equitable and sustainable management, conjunctive use, integrated management, public trust doctrine and demand management for governing river basin development, management and regulation.

SALIENT FEATURES – contd..

Proposes River Basin Authorities for following Basins:

- I. Brahamani- Baitarini basin,**
- II. Cauvery basin,**
- III. Ganga basin**
- IV. Godavari basin,**
- V. Indus basin,**
- VI. Krishna basin**
- VII. Mahanadi basin,**
- VIII. Mahi basin**
- IX. Narmada basin,**
- X. Pennar basin**
- XI. Subarnreakha basin**
- XII. Tapi basin**

SALIENT FEATURES – contd..

- ✓ Two-tier structure for a River Basin Authority,
 - **Governing Council** comprising, inter-alia, of Chief Ministers of riparian States and
 - **Executive Board** comprising, inter-alia, of Secretaries of riparian States
- ✓ Each River Basin Authority to prepare a **River Basin Master Plan** for the inter-State river basin under its jurisdiction on the principles of **Integrated Water Resources Management**.
- ✓ All water resources projects shall conform to the River Basin Master Plan.
- ✓ In case of any dispute or difference or the refusal or neglect to undertake any measures in pursuance of the River Basin Master Plan, the Governing Council shall follow persuasion, conciliation and mediation.

SALIENT FEATURES – contd..

- ✓ **It provides for referral of dispute(s) for resolution under the Inter State River Water Disputes Act, 1956, when the Governing Council fails to determine the issue(s) or resolve the water dispute(s) or where the State Governments disagree with the decision tendered by such Governing Council.**
- ✓ **It empowers River Basin Authority to have its own funds and requires them to prepare Annual Report to be laid before both Houses of Parliament.**
- ✓ **It provides for power to the Central Government to give directions and to make Rules for effective implementation of the provisions of the Bill. It also empowers every River Basin Authority to make regulations for discharging its powers and functions.**

PRESENT STATUS

Draft National Water Framework Law (May 2013)

- Drafting Committee headed by Dr. Y.K. Alagh

Draft River Basin Management Bill (Nov. 2012)

- Drafting Committee headed by Justice (Retd.) T.S. Doabia

✓ Placed before the **National Forum of Irrigation and Water Resources Ministers of States** on 29.05.2013.

✓ Circulated amongst all States/Union Territories/related Union Ministries and also hosted on Ministry's website.

✓ A Committee under the chairmanship of Dr. Mihir Shah, former Member, Planning Commission has been constituted **to review these draft Bills**.

✓ The draft Bills are expected to be finalized by March, 2016



THANK YOU