

GOVERNANCE OF WATER SECTOR IN INDIA

Constitutional Provisions

- The allocation of responsibilities between the centre and the states in respect of laws to be made falls in three categories (article 246) viz.
 - Union list (list-I),
 - State list (list-II) and
 - Concurrent list (list-III)

Constitutional Provisions

- The subject of 'water' is a matter of State list i.e. list-II as given below:
 - ❖ 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.
- Entry 56 of list – I i.e. Union list is as given below:
 - ❖ 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

Constitutional Provisions

- Indian constitution also provides for adjudication of disputes relating to waters of Inter-state rivers or river valleys by Union which reads as:
- “262(1) Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-state river or river valley, (2) Notwithstanding anything in this constitution, Parliament may by law provide that neither the Supreme Court nor any other Court shall exercise jurisdiction in respect of any such dispute or complaint as is referred to in clause (1)”.

EXISTING LEGISLATIONS

Existing Legislations

- So far, four acts have been enacted by the union government under the above constitutional provisions, three under entry 56 of list I namely, the “River Boards Act 1956”, “Betwa River Board Act 1976” and “Brahmaputra Board Act 1980” and one under Article 262, namely, the “Inter-State Water Disputes Act, 1956 (amended in 2002)”.

River Boards Act, 1956

- The River Boards Act, 1956 was enacted for the establishment of River Boards for the regulation and development of inter-State rivers and river valleys.
- As per this Act, the Central Government can constitute a River Board on a request received from a state or otherwise, but after consultation with the State Governments concerned.
- The role of the River Boards as envisaged in the said Act is only advisory in nature.
- The Central Government could not constitute any River Boards under this Act so far.

Existing Legislations

- The union government constituted (i) Betwa River Board in 1976 under Betwa River Board Act 1976 for construction of Rajghat dam on river Betwa and (ii) Brahmaputra Board in 1980 under Brahmaputra Board Act 1980 for preparation of basin plans of Brahmaputra basin.
- The Inter-State Water Disputes Act, 1956 authorizes the union government to set up a tribunal for the adjudication of disputes relating to waters of inter-state rivers or river valleys.
- Various tribunals have been constituted under this Act for adjudication of interstate disputes in Ravi-Beas (part of Indus), Narmada, Godavari, Krishna, Cauvery, Vamshadhara and Mahadayi basins.

Existing Legislations

- Besides the above Acts under specific provisions related to water in the Indian constitution, the union Government has enacted many other Acts under other constitutional provisions as described below:
 - ❖ Damodar Valley Corporation Act, 1948 remained in force as per article 372 of the constitution (a/c to which all the laws in force in the territory of India immediately before the commencement of this Constitution shall continue in force therein until altered or repealed or amended by a competent Legislature or other competent authority)

Existing Legislations

- ❖ The Water (Prevention and Control of Pollution) Act, 1974 and The Water (Prevention and Control of Pollution) Cess Act, 1977 enacted as per article 252 of the constitution.
- ❖ The Environment Protection Act (EPA), 1986 enacted as per article 248 of the constitution (i.e. residuary power of legislation).

Organizations setup on Basin Concept

Organizations setup on Basin Concept

Ganga Flood Control Commission

- Constituted through a resolution of the erstwhile Ministry of irrigation and Power in April 1972 for tackling the flood problem in the Ganga and its tributaries and to facilitate the effective coordination of flood management among the Ganga basin states.

Organizations setup on Basin Concept

Tungabhadra Board

- Constituted under a Presidential order with effect from 1st October, 1953.
- Reconstituted by the Government of India, in exercising the power vested under Section 66(4) of the Andhra Pradesh State Act, in March, 1955 for the completion of the Tungabhadra Project and for its operation and maintenance.

Organizations setup on Basin Concept

Bhakra Beas Management Board

- The Bhakra-Nangal and Beas projects were originally the joint ventures of the States of erstwhile Punjab and Rajasthan. On reorganization of Punjab on 1 November 1966, the Government of India constituted the Bhakra Management Board under section 79 of the Punjab Reorganization Act, 1966 for the administration, maintenance, and operation of the Bhakra- Nangal Project on 1.10.1967.

Organizations setup on Basin Concept

Bhakra Beas Management Board

- The Beas Project works on completion were transferred to the Bhakra management Board and it was renamed as Bhakra Beas Management Board (BBMB) w.e.f. 15 May 1976.

Organizations setup on Basin Concept

Sone River Commission

- Constituted by the erstwhile ministry of energy and irrigation, Government of India through a resolution dated 1st March 1980
- The scope of the commission was limited only to the extent of compiling and analyzing hydrological, hydro-meteorological and consumptive use data, and to carry out investigations and studies for the preparation of basin and regional plans for the optimum use of Sone River waters for irrigation and multipurpose uses, without any binding on the part of the states to accept its findings.

Organizations setup on Basin Concept

Narmada Control Authority

- In pursuance of the decision of the Narmada Water Disputes Tribunal under clause XIV of its final order, the Government of India constituted the Narmada Control Authority (NCA) in 1980 for proper implementation of the decisions and directions of the Tribunal.

Organizations setup on Basin Concept

Krishna & Godavari River Boards

- In accordance with the Andhra Pradesh Reorganization Act, 2014 (No. 6 of 2014), the Central Government has constituted the Krishna River Management Board and Godavari River Management Board for the administration, regulation, maintenance and operation of projects on rivers Krishna and Godavari respectively vide Gazette Notification dated 28th May, 2014.
- An Apex Council for supervision of Krishna & Godavari River Management Boards has also been constituted vide Gazette Notification dated 29th May, 2014.

National Water Resources Council

- Major rivers in our country are inter-state in nature and it has not been possible for individual states to prepare master plans for these rivers.
- It was felt about 4 decades ago that planning at national level for utilization of water resources should be undertaken so that optimum benefits could be derived from the available water resources.
- The Irrigation Commission, National Commission on Agriculture and Rashtriya Barh Ayog had emphasized the need for an apex body to evolve national policies for development and use of water resources in conformity with the highest national interest.

- The National Development Council (NDC) discussed the matter in its meeting held in March, 1982 and 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. The NDC welcomed the proposal of setting up of National Water Resources Council (NWRC)
- Accordingly, NWRC was set up on 10th March, 1983 under the Chairpersonship of Prime Minister of India with Union Minister of Irrigation (now Water Resources) as Vice Chairman .

National Water Resources Council

- Union Ministers of Finance, Agriculture, Planning, Energy, Shipping & Transport, Tourism, Science & Technology, Works & Housing etc., the Chief Ministers/ Chief Commissioners/ Administrators of the States and UTs were the other members of the NWRC.
- One of the functions of the NWRC was to lay down the national water policy and to review it from time to time.

National Water Policy, 1987

National Water Policy, 1987

- The NWRC adopted the first National Water Policy in its 2nd meeting held in September, 1987 and the same was circulated to the central ministries and States for implementation.

National Water Board

National Water Board

- It was considered that the progress achieved in implementation of the NWP was required to be reviewed and reported to the NWRC from time to time.
- The Government, therefore, constituted National Water Board (NWB) in September, 1990 with Secretary (WR) as its Chairman, Member, CWC as Member Secretary and Secretaries of concerned union ministries and Chief Secretaries of States/ U Ts as its members.

National Water Board

- One of the functions of the NWB was to review the progress of the implementation of the NWP and suggest various other appropriate measures required for the same.

National Water Policy, 2002

National Water Policy – 2002

- After adoption of NWP 1987, new challenges emerged in the water resources sector, which necessitated review of the National Water Policy. Accordingly, the revised National Water Policy-2002 was adopted by the National Water Resources Council in its 5th meeting held on 1st April 2002.

National Water Policy – 2002

- The National Water Policy-2002 introduced modification / addition / alteration pertaining to various issues namely Information system, Water resources planning, Institutional mechanism, Project planning, Private sector participation, Water quality, Monitoring of the projects, Water sharing/distribution amongst the States, Performance improvement, Maintenance and modernization, Safety of structures, Land erosion by sea or river, Conservation of water in comparison to National Water Policy -1987

National Water Policy - 2012

National Water Policy – 2012

- Growing population, rising needs of a fast developing nation as well as given indications of the impact of climate change prompted a further review of the National Water Policy - 2002.

National Water Policy – 2012

Inception to Adoption

- In pursuance of the strategies identified in National Water Mission Document as well as deliberations in National Water Board, Ministry of Water Resources initiated the process of review of National Water Policy, 2002 in 2010.
- A series of consultation meetings were held with Hon'ble Members of Parliamentary Standing Committee on Water Resources, Consultative Committee for Ministry of Water Resources and Parliamentary Forum on Water Conservation and Management; NGOs; Academia, experts, professionals; Corporate sector; and representatives of Panchayati Raj Institutions.

National Water Policy – 2012

Inception to Adoption

- A Drafting Committee comprising of Dr. S.R. Hashim, former Member, Planning Commission and Chairman, Union Public Service Commission; Prof. SubhashChander, former Professor, IIT, Delhi; Shri A.D. Mohile, former Chairman, Central Water Commission; and Shri S.C. Jain, Programme Leader at Safe Water Network (an NGO) was also constituted for drafting of the National Water Policy.
- This Committee was supported by a team of officers from MOWR, CWC, CGWB, National Rain-fed Area Authority; NIH and Planning Commission.

National Water Policy – 2012

Inception to Adoption

- Considering the recommendations and feedback received during various consultation meetings, the Drafting Committee identified basic concerns in water resources sector and adopted basic principles which should be followed to address those concerns, and accordingly, evolved draft policy recommendations.
- The draft National Water Policy (2012), recommended by the Drafting Committee, was put up on the website of Ministry of Water Resources and also circulated amongst all State Governments and related Union Ministries.

National Water Policy – 2012

Inception to Adoption

- More than 600 comments were received on the Draft National Water Policy (2012). These comments along with newspaper reports, etc., were considered by the Drafting Committee and accordingly, Revised Draft National Water Policy (2012) was recommended.
- Revised Draft National Water Policy (2012) was considered by the National Water Board (NWB) in its 14th meeting held on 07.06.2012 wherein modifications were suggested and modified Draft National Water Policy (2012) was recommended to National Water Resources Council (NWRC) for adoption and finalization.

National Water Policy – 2012

Inception to Adoption

- Modified Draft National Water Policy (2012) recommended by NWB was considered by the NWRC in its 6th meeting Chaired by the Hon'ble Prime Minister on 28.12.2012.
- The NWRC adopted the National Water Policy (2012) as per the deliberation at the Council Meeting.
- The adopted National Water Policy (2012) was released during India Water Week, 2013.

National Water Policy – 2012

Objective

The objective of the National Water Policy is to take cognizance of the existing situation, to propose a framework for creation of a system of laws and institutions and for a plan of action with a unified national perspective.

National Water Policy – 2012

Basic Principles

- 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.
- 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.

National Water Policy – 2012

Basic Principles

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

National Water Policy – 2012

Basic Principles

- 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.
- The impact of climate change on water resources availability must be factored into water management related decisions.

National Water Policy – 2012

Water Framework Law

- There is a need to evolve a National Framework Law as an umbrella statement of general principles.
- 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.

National Water Policy – 2012

- There is a need for comprehensive legislation for optimum development of inter- State rivers and river valleys. Such legislation needs, inter alia, to deal with and enable establishment of basin authorities, comprising party States, with appropriate powers to plan, manage and regulate utilization of water resource in the basins.

Proposed Legislations

National Water Framework Act

Proposed Legislations

River Basin Management Bill, 2012

Proposed Legislations

River Basin Management Bill, 2012

MoWR constituted a Committee under the Chairmanship of Justice Tejinder Singh Doabia to study the activities that are required for optimal development of a river basin and changes required in the existing River Board Act, 1956 for achievement of the same. The report of the Committee containing the River Basin Management Bill, 2013 was submitted in November, 2012. Some of the salient features of the Bill are:

- ❖ The Central Government shall, by notification in the Official Gazette, establish a River Basin Authority for development, management and regulation of waters of an inter-State river basin or any specified part thereof and different Authorities shall be established for different inter-State river basin(s).

Proposed Legislations

River Basin Management Bill, 2012

- ❖ Basin States shall have the right to participate in the development, management and regulation of waters of an inter-State river basin in an equitable and sustainable manner. In case any basin State fails to participate in the regulation, development and management then the decision of the remaining States shall be binding on all participating and non-participating States.
- ❖ Basin States shall participate and cooperate in best interest of the nation, in the development, management and regulation of waters of inter –State river basin for the mutual benefit of the basin States and the Indian Union.

Proposed Legislations

River Basin Management Bill, 2012

- ❖ Every River Basin Authority shall consist of a Governing Council and an Executive Board.
- ❖ The Chairperson of the Governing Council shall be from amongst the Chief Ministers of the basin States, by rotation.
- ❖ Chief Executive Officer of Board, will be nominated by the Central Government from amongst the officials of the rank of the Member of the Central Water Commission of the Government of India;

Proposed Legislations

River Basin Management Bill, 2012

- ❖ A River Basin Authority shall ensure that a River Basin Master Plan for river basin development, management and regulation is prepared for the inter-State river basin under its jurisdiction.
- ❖ All the basin States shall ensure coordination with the aim of producing a single inter-State river basin master plan.

Proposed Legislations

River Basin Management Bill, 2012

- ❖ River Basin Master Plan shall be coordinated with the plans for national economic and social development, the general plans for land use and general urban plans and plans for environmental protection, and at the same time the needs of various regions and industries shall be taken into consideration.
- ❖ River Basin Master Plan shall be made through an inclusive consultative process in the manner prescribed.

THANKS