

RECOMMENDATIONS

ON

DRAFT MODEL BILL FOR CONSERVATION, PROTECTION, REGULATION AND MANAGEMENT OF GROUNDWATER, 2016

(In response to the draft bill put in public domain on 17 May 2016 inviting comments/feedback from the public)

BY

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(After a public consultation conducted at Nayagaon, Block Sohna, District Gurgaon on 23 June 2016)

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1.0 Introduction to the Proposed Bill

The proposed model bill 2016 for Protection, Regulation, Management and Conservation of Ground Water ('The Model Bill') has been drafted by the Union Water Resource Ministry ('The Ministry'). The Ministry has asked for the comments, suggestions and recommendations from public. The Model Bill focuses on laying down the norms for optimum usage, penalties for misuse, practices to conserve groundwater water while declaring that state shall be the trustee of water as a common heritage in public interest. The Model Bill also recognizes the fundamental right to water (in pursuance of the Supreme Court decision).

- The Model Bill includes the provisions i.e. to form committees at all levels - Gram Panchayat level committee, Block level committee, District level committee and State level Committee.
- The bill focuses on the efficient and judicious use of ground water and further empowers various panchayat, local bodies, and municipalities with statutory powers to conserve and protect ground water from exploitation.
- It has further laid down the norms for ground water use prioritization and the provision to declare ground water protection zones.
- The Model Bill includes provision for the creation of ground water security plan at Panchayat level, Block level, District level and State level.
- The Committees shall be made to regulate water extraction and usage in urban as well as rural areas.
- It includes provisions laying down the obligations for ground water users and has also laid down the responsibilities of the state to ensure safe water.

2.0 About the Organisations

Navjyoti India Foundation is a not-for-profit society, registered on January 5, 1988 by then 16 serving police officers of Delhi Police and conceived by Dr Kiran Bedi, first woman IPS, and her team of North District police, with the main objective of crime prevention through welfare policing. After more than two decades of being in operation, Navjyoti has numerous localized, grassroot projects in the areas of rural capacity building, water conservation, self-reliance among underprivileged communities, child education, women empowerment etc. **The details about its projects and work are available at www.navjyoti.org.in.**

International Policy Analysis Network (IPAN) is Asia's first youth-led public policy think tank. It is a not-for-profit academic research organization primarily tasked with bringing out research articles and reports on relevant public policy issues. It engages with young students

and early career professionals with the aspiration of sowing the seeds for an interest in public policy amongst youth. **The detailed work of the organization can be seen at www.ipan.in.**

3.0 Methodology of the Public Consultation and Brain Storming

Introduction

Navjyoti India Foundation, in response to the Model Bill, conducted a Public Consultation at Rural Management and Training Institute, Nayagaon on June 23, 2016 in which elected local body representatives, community members and academics participated and shared their views about the bill with the aim of framing recommendations to be sent to the Ministry of Water Resources. International Policy Analysis Network (IPAN) coordinated the brainstorming session and provided the academic support to the consultation and the drafting of this response.

Proceedings

TIME : 10:30 A.M. – 10:35 A.M	Welcome by Mr. Somdutt Bharadwaj – Team Leader, Community Development Program, Navjyoti India Foundation
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Mr. Somdutt Bharadwaj, Navjyoti India Foundation, Team Leader, Community Development Program, Navjyoti India Foundation welcomed all the participants.

TIME 10:35 A.M. – 10:40 A.M.	Orientation about Navjyoti India Foundation
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The participants were oriented about the work done by Navjyoti India in the area of Child Education, Skill Upgradation and Community Development. The overall objectives of the consultation were shared briefly.

10:40 A.M. – 10:50 A.M.	Message from Hon’ble Prime Minister (Mann Ki Baat)
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The audio message of Hon’ble Prime Minister - Mr. Narendra Modi was played to motivate and inspire the participants in taking collective actions.

10:50 A.M. – 10:55 A.M.	Sharing about the progress on ‘Jal Kranti’
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The success stories of Jal Kranti - an initiative of Navjyoti India Foundation to save and conserve water in the villages of Sohna Block were shared by Ms. Chandni Bedi Taneja – Director, Rural

Management and Training Institute. Sehjas, Behlpa and Hariyaheda Village were acknowledged for saving 9000 Litres, 2500 litres and 6600 litres of water in a day respectively.

11:00 A.M. – 11:30 A.M	Working in four separate groups on the Model Bill with key questions for discussions (Coordinated by IPAN)
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The participants were divided in 4 working groups having 10-11 members per group. They were given an overview about the activity. Each group was asked to deliberate on the questions based on necessary provisions of the bill. The questions have been summed up as follows:

- Is there a problem pertaining to groundwater? What are the major issues pertaining to Ground Water in terms of quantity and quality?
- In your view, is groundwater a private property?
- Should there be penal and pecuniary penalties if groundwater is misused?
- How will Panchayats ensure equitable distribution of water in accordance with Section 10 of the Proposed Bill?
- Do Gram Panchayats have the capacity and resource to undertake the responsibilities of preparing the Groundwater Security Plan and other plans/reports as envisaged in the bill?
- What are the issues pertaining to management and conservation of groundwater at the Panchayat level? How will the Panchayat deal with those issues?
- What are your viewpoints if subsidies on water is replaced by water bills?

11:30 A.M. – 12:30 P.M	Presentation and Brainstorming on suggestions and recommendations by Panchayat (Coordinated by Kshitij Bansal, President, IPAN)
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Major issues highlighted during the brainstorming

Is groundwater a matter of concern?

All the participants present accepted that water is an issue in view of depleting resources and a law to this effect must be made.

Water as a personal property

Most of the Panchayat representatives accepted that water is a common property resource and cannot be considered as a personal property.

Regarding provision for penalties

They all accepted in unison that there should be a provision of penalties in the law pertaining to groundwater management or else the general public misuses this scarcely available resource.

Equitable distribution of water

The Panchayats shared that in the current realities there is no equitable distribution of water due to topography of the areas. The community in the upper reaches do not get the water. However, they feel that this can be managed if authorization is given to them, however needs the support of the appropriate government. Some members of the group suggested the need to create norms and restricted timings of water supply. Other member of group focused on the use of submersible pumps mentioning that they should be restrained and protection and conservation of ground water should start from individual households.

Whether Gram Panchayats can prepare the usage/security/protection plans/reports as required in the proposed law?

The majority of the participants were of the opinion that elected representatives should receive proper training on how to promote water conservation at large. They expressed that they would require regular and large scale state government help for these plans to be prepared.

They said regular meetings must be conducted at all levels including with the water users for Protection, Conservation, Regulation and Management of Ground Water.

It was also highlighted that the Panchayats may find it difficult to prepare equitable plans for their villages because the consensus would be difficult to arrive at given that many factors like caste domination, money and muscle power are at play when the resource sharing is the question at such local levels.

On Subsidy

All of the participants barring 2-3 members were of the view that water is a basic necessity and it should be provided for free or as a subsidy to the villagers without any stipulations or conditions.

12:30 P.M. – 1:15 P.M

Legislation and the Provisions of the Model Bill
by – Mr. Kshitij Bansal, President, International
Policy Analysis Network.

In this session, Mr. Kshitij Bansal shared his expertise and gave inputs on the feasibility of implementing the various provisions of the law from a legal point of view. The inputs shared by him are as follows:

- He appreciated the efforts of the elected representatives of Sohna Block participating in the process and acknowledged the effort of the Panchayats in taking leadership and sharing knowledge.
- He explained the broader objectives of the Model Bill.
- The participants were made aware about the decision of the Supreme Court which states – **“Safe and Secure water is the basic right of every Indian Citizen”**.
- He shared that there were important elements of the proposed bill which makes it different from the existing water policies. These are as follows:
 - Changes in manner of ownership of groundwater resources.
 - Enhanced power and responsibility of the Panchayats.
 - Shift from individual right to collective right.
- **Chapter V – Ground Water Protection Zones and Ground Water Security Plans based on a Dynamic Resource Assessment**
 - The provisions related to formation of Ground level water committees at all the four levels - Panchayat level, Block level, District level and State level were explained.
 - The responsibilities of Panchayat, Block Development Officers, District level officials and State Level officials in respect to demarcation and conservation of Ground Water Protection Zones were explained in detail.
- **Right to Water for Life (Section 4):** The provisions related to guaranteeing and determining the ‘water for life’ based upon the average, needed quantity of groundwater for individuals and households were explained in detail.
- **Groundwater Security Plan (Section 12, Clause 3):** It was shared that geographical factors should be considered while creating Groundwater Security Plans. For instance – The capability of the soil to retain water is not the same in all areas and varies from one

state to the other. He further shared that it is important to know that villages of Haryana are overly dependent on groundwater resources owing to lack of rivers. It was explained that the Aravalli Range plays an important role in the rainfall in Haryana and in recent years due to excessive mining, the Aravalli Hills are getting depleted at a speedy rate.

4.0 Recommendations

The following are the recommendations being made in relation to the Model Bill after taking into consideration the views gathered from this above explained public consultation and an independent policy analysis of the proposed law:

4.1 CHAPTER I- PRELIMINARY

1. SHORT TITLE, EXTENT AND COMMENCEMENT (Clause 1, page 4)

Sub Clause (1) dealing with short title of the Act reads as follows:

“This Act may be called the Protection, Conservation, Regulation and Management of Groundwater, 2016”

It is felt that the title of the Bill may be called as “The Sustainable Groundwater Management Act, 2016”. It is recommended so that it is easy to refer and recall by the common persons.

2. DEFINITIONS (Page 4)

2.1 The term ‘common pool resource’ is used but not defined here.

2.2 The term ‘Groundwater Protection Zone 2’ has been used in the draft (Chapter VIII, Section 19, Clause 5 on page number 17) but not defined specifically how it is different from ‘Groundwater Protection Zone’. It needs to be defined since the relevant clause talks about the certification also certifying the kind of crop which can be sown and grown by the farmer depending upon the groundwater stress of the area.

2.3 Moreover, regarding this Clause 5 which talks about certifying the kind of crop that can be grown, it is recommended that this provision be combined with the already in force scheme Soil Health Cards by the central government.

4.2 CHAPTER V- GROUNDWATER PROTECTION ZONES AND GROUNDWATER SECURITY PLANS BASED ON A DYNAMIC RESOURCES ASSESSMENTS

3. Preparation of Groundwater Security Plans (Section 12, Clause 3, page 9)

The objectives of the Groundwater Security Plan are clearly spelt out in the Bill. It is also suggested to lay down the minimum parameters on which Groundwater Security Plan should be made.

4. Adoption, Time Bound Review and Validity of the Groundwater Security Plan (Section 12, Clause 4, page 10)

The Bill proposes that the Groundwater Security Plan shall be valid for a period of five years from the date on which it becomes binding. It shall be revalidated or amended after every five years. **However, we recommend that the Groundwater Security Plan created by the Panchayat should be reviewed after every 1 year** in view of changing environmental, social, technological and political conditions. This will also ensure effective monitoring and evaluation of Groundwater Security Plans.

4.3 CHAPTER VI – INSTITUTIONAL FRAMEWORK

5. Rural Areas (Section 13, Clause 1, Page 10) - Gram Panchayat Groundwater Sub-Committee

5.1 Composition of Committee not defined: While the functions of the Groundwater Sub-Committee are mentioned, it is recommended to define the composition of the Sub-Committee ensuring appropriate representation of all groundwater users, stakeholders including disadvantaged communities, gender representation, economically weaker sections and other experts, environmentalists and interested parties so as to promote the equity principle already specified in Chapter III, Clause 5.

5.2 The norms of Gram Panchayat Ground Water Sub – Committee and the process of appointing its members should clearly laid down the bill.

6. District Groundwater Council and State Groundwater Advisory Council - District Ground Water Council (Section 15, Clause 9, Sub Clause (3-i), Page 13)

The clause specifies – “Conducting Capacity Building Programmes”. Though there is a mention of conducting capacity building programs but it needs to be explicitly defined. To achieve the goals of the Draft Bill, **the Panchayats would require a comprehensive understanding of the hydro-geology, groundwater basins, basin boundaries and flows across them including spatial and temporal information on groundwater levels, quality, groundwater-surface interaction, soil type, groundwater dependent ecosystems, water recharge systems and many other complex issues.** This requires competence of the expert group which may not be possible at the Gram Panchayat level. Hence, it is recommended that a person appointed at the appropriate level such as Block or District must work very closely with the Gram Panchayat in making groundwater security plans and also in enhancing their capacities. In addition to the above, the capacities of the elected representatives must be developed in conducting Social and Environmental Impact Assessment.

Other major recommendations for the issues not covered in the Bill

7. Water Budget: Achieving sustainable groundwater management would require appropriate authority to develop and implement sustainable groundwater budgets and there is no mention about this in the model bill.

8. Panchayats simply do not have the capacity to implement the provisions of this law: Panchayats shared that is a welcome move in view of the increasing pressure on groundwater and irreversible ecological damages, but presents significant opportunities and challenges. The panchayats would require specialist and expert assistance in the preparation of usage plans, security plans and other types of assessment reports as envisaged in the law.

9. Capacity Building of the local bodies: It is strongly recommended that the law takes some time before it is notified and this time lag is dedicated to a large scale capacity building programme for the local bodies. The governments can collaborate with civil society organisations and chart out a plan of training and sensitizing members of each village panchayat, making them aware of the area’s local hydrology, geology, requirements, stress levels and factors on the water resource. This will go a long way in making them capable for the preparation and implementation of the reports/plans that the proposed law mandates. The mindset of the water users needs to be changed and they need to be sensitized to realize the significance of water conservation and sustainability.

10. An independent ombudsman at the State level: This law touches the very basic social fabric of the society and thus it will have major challenges in the implementation. Views expressed during our public consultation also concurred that village societies operate amongst a number of factors which determine the village administration and the allocation of village resources. These factors are caste dominance, religious majoritarian mindsets, money and muscle power, and political influences. Since, this law gives power and authority in the hands of Panchayat to prepare the Groundwater Security Plan as well as decide the amount needed for ‘water for life’ determination based upon their own villagers’ daily requirements, it will be not be surprising that the factors talked above will determine the making of these plans wherein the influential will enjoy a major share in the resource and some in the village will be marginalized.

The bill indeed creates a position for a Grievance Redressal Officer but this grievance will only be for the violation of the plan implementation. **What about making of the plan itself and the allocation made in the plan itself? Instead of making people approach the superior courts with writ petitions for their fundamental right being violated, the law should create an independent ombudsman at the state level who can be approached if the due equitable distribution of water resource has not been done or a community has been marginalized.** The Grievance Redressal Officer can continue to have the mandate in the cases of a violation of an existing binding plan notified by the local authority. But the ombudsman would be responsible to deal with rights’ based issues where the process itself may have been flawed while preparing the plan.

Key contributors to this response:

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4. Mr. Himanshu Sapra, Student – University Institute of Legal Studies, Chandigarh University
5. 42 Sarpanch and Panch members from 20 villages of Sohna Block, District Gurgaon

Our special thanks to Prof. (Dr.) S. Shantha Kumar – Dean, School of Law, G.D. Goenka University and Mr Lalit Sharma, Director – Adaptive Technologies , S M Sehgal Foundation for the support.