

# DRAFT NATIONAL WATER FRAMEWORK BILL, 2016

## DRAFT OF 16 MAY 2016

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*AN ACT to provide an overarching national legal framework with principles for protection, conservation, regulation and management of water as a vital and stressed natural resource, under which legislation and executive action on water at all levels of governance, as also water-use and water-related actions by citizens and their associations, public and private institutions and bodies corporate of all kinds, can take place, and for matters connected therewith and incidental thereto.*

WHEREAS water is the common heritage of the people of India; is essential for the sustenance of life in all its forms; an integral part of the ecological system, sustaining and being sustained by it; a basic requirement for livelihoods; a cleaning agent; a necessary input for economic activity such as agriculture, industry, and commerce; a means of transportation; a means of recreation; an inseparable part of a people's landscape, society, history and culture; and in many cultures, a sacred substance, being venerated in some as a divinity;

AND WHEREAS water in all its forms constitutes a hydrological unity, so that human interventions in any one form are likely to have effects on others;

AND WHEREAS water is a finite substance in nature, circulating through the hydrological cycle for millennia;

AND WHEREAS ground water and surface water interact throughout all landscapes from the mountains to the oceans;

AND WHEREAS human interventions such as over-extraction of groundwater in the immediate vicinity of a river, destruction of catchment areas and river flood-plains have very negatively impacted river flows in India;

AND WHEREAS such a decrease in river flows, in turn, negatively impacts groundwater recharge in riparian aquifers in the vicinity of the river;

AND WHEREAS the fall in water tables and water quality, as also the drying up of rivers, has serious negative impacts on drinking water and livelihood security of the people of India, as also the prospects for economic growth and human development in the country;

AND WHEREAS each river basin, including associated aquifers, needs to be considered as the basic hydrological unit for planning, development and management of water, empowered with adequate authority to do the same;

AND WHEREAS water in its natural state is a common pool resource and the Supreme Court of India has applied the public trust doctrine to water;

AND WHEREAS the Supreme Court of India has recognised the fundamental right to water as integral to the right to life and has further specified variously the corresponding duties of the state;

AND WHEREAS water has to be protected and preserved for generations, calling for continuous and cohesive action with proactive planning and taking of all appropriate measures for its effective protection, conservation, regulation and management;

AND WHEREAS water returns as waste or sewage or residue or effluent, often in unusable form, and sometimes contaminating water sources;

AND WHEREAS freshwater is coming under increasing pressure because of the processes of urbanisation and economic growth, leading to over-use/depletion, abuse, waste, scarcity, pollution, and overall unsustainability of the resource itself and of the ecological system of which it is a part;

AND WHEREAS the country is faced with recurrent drought, year after year, causing a serious crisis of life and livelihoods for millions of people;

AND WHEREAS the impacts of ongoing climate change on the global water cycle must be addressed pro-actively and damages caused by climate change-related events require adaptation measures;

AND WHEREAS existing legal provisions governing water have aggravated its unsustainable and iniquitous extraction creating a serious water crisis and denying access to water for life for large numbers of people;

AND WHEREAS it is the duty of the appropriate government to ensure water security for its people;

AND WHEREAS India has committed to meeting the United Nations Sustainable Development Goals by 2030;

AND WHEREAS conflicts over water across uses, users or regions over both surface and ground water are becoming more common by the day;

AND WHEREAS there are many different perceptions of and perspectives on water among people, States and groups, leading to divergences in approach, policy, doctrine, principle, law and institutional arrangements;

AND WHEREAS having regard to the foregoing it is desirable that there should be a broad national consensus on certain general approaches, concerns, directions, and principles, while leaving room for flexibility on specific detail within this broad consensus from State to State and from locality to locality, so as to bring about the prudent, wise, equitable, socially just, conflict-free, efficient, and sustainable use of water for a number of purposes;

AND WHEREAS it is provided in articles 249 and 250 of the Constitution that Parliament has power to make laws for the States with respect to the matters aforesaid;

AND WHEREAS in pursuance of clause (1) of article 252 of the Constitution resolutions have been passed by all the Houses of the Legislatures of the States of .....to the effect that the matters aforesaid should be regulated in those States by Parliament by law;

BE it enacted by Parliament in the Sixty-Ninth 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, 2016.

- (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 on the date of such adoption and any reference in this Act to the commencement of this Act shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory.

**2. Definitions** – (1) In this Act, unless the context otherwise requires:-

- a) ‘Appropriate Government’ is the authority at the lowest possible administrative level, including in relation to interstate rivers and river valleys, the Central Government, the State Government and local self-government institutions, both rural and urban;
- b) ‘Aquifer’ means an underground layer saturated rock or unconsolidated materials including gravel, sand and silt, that is capable of providing sufficient water to various types of wells and such water extraction mechanisms and to springs and seeps;

- c) 'Base flow' means that portion of a stream flow that is contributed by groundwater from an aquifer. In other words, it is the discharge of groundwater into a stream channel;
- d) "Basin States" are States and/or Union Territories, the territory of which includes any part of the Basin;
- e) 'Corporatisation' means the conversion of a government body or agency into a company or corporation;
- f) 'Differential Pricing' means different pricing of water for different uses and for different classes of users;
- g) '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;
- h) 'Environmental flows' is the quantity, timing, and quality of water flows required to sustain freshwater and estuarine ecosystems and the human livelihoods and well-being that depend on these ecosystems. It also includes the flow regime required to maintain sediment and nutrient transport from source to sea. This also includes water for cultural and religious needs.
- i) 'Full cost recovery pricing' or 'full economic pricing' means pricing a good or service so as to recover all the costs, direct and indirect, including both Operation and Maintenance costs and capital-related costs, involved in the production and/or supply of that good or service, without any concession or subsidisation or under-pricing of any kind;
- j) 'Groundwater' means water occurring under its natural state, where it exists below the surface in the zone of saturation whereby it can be extracted through wells or any other means or emerges as springs and base flows in streams and rivers. In its natural state, it is a common pool resource;
- k) 'IndiaWRIS' means web based India Water Resources Information System for water related data on geographical information system platform;
- l) '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;
- m) 'Irrigation Service Fees' means the charge for use of irrigation water by farmers in the command area;
- n) '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;
- o) '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;
- p) 'Overdrawal of groundwater' means drawal or extraction of groundwater in excess of average annual replenishable recharge of the aquifer;

- q) 'Participatory Approach' 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;
- r) '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;
- s) 'Prescribed' means prescribed by rules made under this Act;
- t) '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;
- u) 'Public trust' means the doctrine that the state at all levels holds natural resources in trust for the community;
- v) 'Rainwater harvesting' means capturing and conserving rainwater or retarding run-off through various structures either for the direct use of the stored waters or for recharging groundwater aquifers; and
- w) 'River basin' means the area drained by a river and its tributaries including associated aquifers, that is, the total area within which whatever precipitation or runoff occurs will, except for evaporation, eventually find its way to the river or one of its tributaries and associated aquifers;
- x) 'Sustainable use' means the use of water that ensures continued availability for present and future generations, without depletion or deterioration or dysfunctionality, and the continued healthy function of the related ecological system;
- y) 'Sustenance agriculture' means agriculture as a means of sustaining life, including nourishment;
- z) 'Water footprint' means the total volume of water directly used and the water embodied in goods and services used, by an individual or community or country as a whole, or by an industry or business in its production or other commercial activity;
- aa) 'Water for life' means the basic safe water requirements for realising the fundamental right to life of each human being, including drinking, cooking, bathing, sanitation, personal hygiene and related personal or domestic uses, with an additional requirement for women for their special needs; and includes water required for domestic livestock;
- bb) '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.

(2) Words and expressions used in this Act, but not defined, shall have the meaning assigned to them in any other law in this regard in force as the case may be.

## **Chapter II: Right to Water for Life**

**3. Right to Water for Life** – (1) Every person has a right to sufficient quantity of safe water for life within easy reach of the household regardless of, among others, caste, creed, religion, community, class, gender, age, disability, economic status, land ownership and place of residence:

Provided that the precise quantity of safe water for life shall be determined by the appropriate government from time to time.

(2) Every drinking water supply agency shall comply with the Manual of the Central Public Health and Environmental Engineering Organization, Bureau of Indian Standards specifications or standards adopted by the appropriate government as modified or revised from time to time.

(3) The state's responsibility for ensuring every person's right to safe water for life shall remain even when water service provision is delegated to a private agency and in case of such delegation, the right of citizens to safe water for life and the duty of the state to provide the same shall remain in force:

Provided that such a delegation of water service provision to a private agency will, in no event, constitute the privatisation of water

## **Chapter III: Basic Principles**

**4. Water as a Common heritage and Resource, held in Public Trust** – (1) Water is the common heritage of the people of India, held in public trust, for the use of all, subject to reasonable restrictions, to protect all water and associated ecosystems. In its natural state, such as river, stream, spring, natural surface water body, aquifer and wetland, water is a common pool resource, not amenable to ownership by the state, communities or persons.

(2) The state at all levels holds water in public trust for the people and is obliged to protect water 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.

(3) 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.

(4) It shall be the duty of the state at all levels, the citizens, and all categories of water users, to protect, preserve and conserve all water sources, and pass them on to the next generation.

**5. River Rejuvenation** – (1) The appropriate government shall strive towards rejuvenating river systems with community participation, ensuring:

(a) ‘AviralDhara’- continuous flow in time and space including maintenance of connectivity of flow in eachriver system;

(b) ‘Nirmal Dhara’- unpolluted flow so that the quality of river waters is not adversely affected by human activities; and

(c) ‘Swachh Kinara’ – clean and aesthetic river banks:

Provided that rejuvenation efforts as aforesaid shall focus on conservation and restoration of the river basin, integrating participatory watershed management andrecycle-reduce-and- reuse principles,, recognizing that healthy river systemsareessential for sustainable development.

(2) Recognising the integral link between aquifers and river flows, the appropriate government shall strive towards rejuvenation of depleted and stressed aquifers falling within its jurisdiction on a scientific basis,with emphasis on community participation,leading to sustainability of the aquifer:

Provided that wherever the quality of the groundwater has deteriorated, the appropriate government shall undertake aquifer remediation to restore the quality by taking appropriate measures.



**6. Sustaining Ecosystems Dependent on Water** – (1) The appropriate Government shall take all measures to protect the ecological integrity necessary to sustain ecosystems dependent on waters.

(2) Rivers, water bodies, aquifers and wetlands shall be recognised as ecological systems both in themselves and also as parts of larger ecological systems, and protected from over-use/depletion, abuse, pollution/contamination, and degradation.

(3) There shall be minimum interference in existing natural river flows; in the natural state of water bodies and wetlands and in floodplains and riverbeds, which shall be recognised as integral parts of the rivers themselves.

(4) Rivers shall be protected from construction on their floodplains and from sand mining.

(5) Where water sources, catchments, drainage paths, river flows, water bodies, aquifers, wetlands, flood plains or riverbeds have already been encroached upon or interfered with, efforts shall be made to stop further encroachment or interference and reverse the adverse impact already made, to the utmost extent possible.

(6) Environmental flows adequate to preserve and protect a river basin as a hydrological and ecological system shall be maintained.

(7) The protection, conservation, regulation and management of water shall be carried out by the appropriate Government in a manner that is sustainable, equitable, transparent, accountable and participatory.

**7. People-centred Water Management** –(1) People-centred decentralised water management, for both surface and ground water, including local rainwater harvesting, watershed development and participatory irrigation management, shall be prioritised, while recognizing, encouraging and empowering local initiatives.

(2) Customary laws, which form part of traditional wisdom and practices on water management, shall be given due recognition and promoted by the appropriate government, provided they are non-discriminatory.

(3) Endeavour shall be made, wherever possible to evolve working relationships between the non-discriminatory informal community institutions for water-related activities and the formal institutions of local governance, including local authorities.

**8. Water Use and Land Use** – (1) 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.

(2) Demand management of water shall be implemented, especially through evolving a sustainable agricultural system which economizes on water use and maximizes social and ecological value from water, while bringing in equity in use of water and avoiding waste.

**9. Appropriate Treatment and Use of Wastewater** – (1) The appropriate Government shall make all efforts for appropriate treatment of wastewater and its gainful utilisation.

(2) The appropriate Government shall evolve and implement economic models that promote sustainability of recycle-reduce-and-reuse of water resources, while ensuring adherence to principles of equity.

**10. Standards for Water Quality and Water Footprints** – (1) There shall be binding national water quality standards for every kind of water use.

(2) There shall be binding national water footprint standards 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 such standardized water footprints and such assessment shall be appropriately incorporated in inter-sectoral, inter-regional and inter-State allocation of water and in preparation of Water Security Plans as per Section 15.

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

**11. Water Use Prioritisation** – (1) The first priority and charge on water shall be meeting the right to water for life, followed by allocation for achieving food security, supporting sustenance agriculture, sustainable livelihoods and eco-system needs.

(2) Inter se allocations of water among these priorities, other than water for life, shall be as determined by the appropriate Government, with reference to local circumstances such as local climate, land and soil characteristics, water availability, prevalent activities and livelihoods, and the land-uses indicated by those circumstances.

(3) Available water, after meeting the above priorities, should be allocated for other uses, in a manner to promote its conservation and efficient use:

Provided that these uses of water are consistent with the objective of sustaining aquifers and ecosystems indispensable to the long-term sustenance of the resource.

#### **Chapter IV: Integrated River Basin Development and Management**

**12. Integrated River Basin Development and Management** – (1) A river basin, including associated aquifers, shall be considered as the basic hydrological unit for planning, development and management of water.

(2) Such integrated planning is required to ensure that over-extraction of groundwater in the immediate vicinity of a river, destruction of catchment areas and river flood-plains do not negatively impact river flows in India.

(3) Such integrated planning must also ensure that a decrease in river flows, in turn, does not negatively impact groundwater recharge in riparian aquifers in the vicinity of the river.

(4) Such integrated planning is essential to prevent the serious negative impacts of the fall in water tables and water quality, as also the drying up of rivers, on drinking water and livelihood security, as also on the prospects for economic growth and human development in the country

(5) Each Basin State shall make best efforts to integrate appropriately the management of waters with the management of all natural, agricultural, and human resources of a river basin therewith taking into account the social, economic and institutional factors operating in a river basin.

(6) Every water-related activity in any part of a river-basin, or a sub-basin of a large basin including any water resources project(s) proposed at the river basin or a sub-basin level by the concerned entity shall be undertaken with due regard to (a) the hydrological, ecological and agro-climatic characteristics and

features of the basin or sub-basin as a whole; (b) the land-use appropriate to the relevant area; (c) the inter-linkages between water quality and quantity consistent with broader environmental management approaches, and (e) a holistic view of the relationships of all such activities with one another and with the basin or sub-basin as a whole.

Provided that every water-related activity in any part of a river-basin shall ensure that over-extraction of groundwater in the immediate vicinity of a river, destruction of catchment areas and river flood-plains do not negatively impact river flows and that a decrease in river flows, in turn, does not negatively impact groundwater recharge in riparian aquifers in the vicinity of the river.

(7) River basins or sub-basins shall be managed in a way that ensures scientific planning of land and water resources, taking basin/sub-basin as unit, with unified perspectives of water in all its forms (including precipitation, soil moisture, ground and surface water) and ensuring holistic and balanced development of both the catchment and the command areas, based on the recognition that water is a common pool resource held by the state in public trust.

(8) Equitable and optimal utilisation of waters within a river basin shall be ensured, with due regard to the present and future needs for life and livelihoods, social justice and equity, and ecological sustainability.

(9) Each State Government shall develop, manage and regulate basins of intra-State rivers through a River Basin Master Plan to be implemented by an appropriate institutional mechanism.

Provided that each State Government shall cooperate and participate constructively in planning and management of inter-State rivers along with other co-basin States.

(10) The Central Government shall provide for establishment of a River Basin Authority for each inter-State river basin, or for a sub-basin of sub inter-state river basin wherever appropriate, for optimum and sustainable development of the inter-State rivers and river valleys, with active participation and cooperation by all basin States to ensure equitable, sustainable and efficient utilisation of water resources with emphasis on demand management through conjunctive and integrated use of resources.

(11) Each River Basin Authority shall prepare a Master Plan for the River Basin, under its jurisdiction, comprising such information as may be prescribed and the Master Plan, so prepared, shall be reviewed and updated

after every five years after due consultation with all other planning agencies and stakeholders.

(12) The River Basin Master Plan shall take due account of and be coordinated with plans for national economic and social development, the general plans for land use, rural and urban development, plans for river and aquifer rejuvenation and environmental protection and plans for treatment and use of treated waste water; and shall give due emphasis to regional agro-climatic considerations, while taking into account possible future scenarios (including climate change).

Provided that the environmental protection plan, including cumulative environment impact assessment, shall form part of the River Basin Master Plan.

(13) The River Basin Master Plan, at all stages, shall remain in the public domain, and shall be available online.

(14) All decisions and actions on water resources of the River Basin, including implementation of water resources projects, shall progressively conform to the River Basin Master Plan.

(15) Inter-basin transfer of inter-state river 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, with the involvement and agreement among concerned States and their citizens from the outset.

**13. Project Planning and Management** – (1) All water resources projects shall conform to the River Basin Master Plan prepared under section 12, applicable efficiency benchmarks and shall take into account all social and environmental aspects in addition to techno-economic considerations of the project, after seeking the informed consent of project affected families, as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

(2) Planning and management of water infrastructure, such as, dams, flood embankments, tidal embankments, among others, shall incorporate coping strategies as well for possible future scenarios including climate change.

(3) Concurrent monitoring at project and State levels will be done *paripassu* with execution of all components of water projects, with a view to prevent time and cost over-runs and to ensure timely delivery of enduring outcomes on the ground.

(4) Local authorities, like Panchayats, Municipalities, Corporations, 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, Scheduled Tribe, women and other weaker sections of the society shall be given due consideration.

**14. Convergence in Water Sector Schemes** – (1) The appropriate Government shall take all possible measures to synergise and integrate different development schemes including schemes for water conservation, watershed management, irrigation, drinking water, sanitation and improvement of water quality at Panchayat or Municipality level and further at sub basin and basin level.

(2) The appropriate Government shall also specify enabling institutional framework including appropriate coordination and policy support mechanism for effective convergence of schemes.

### **Chapter V: Planning for Water Security**

**15. Preparation of Water Security Plans** – (1) The appropriate Government shall prepare and oversee the implementation of a Water Security Plan for (a) attainment of sufficient quantity of safe water for life and sustainable livelihoods by every person; and (b) ensuring water security even in times of emergencies like droughts and floods

(2) The Water Security Plan shall be prepared at the lowest possible administrative level based on a determination of the estimated availability and requirement of water.

(3) The Water Security Plan shall contain, besides a description of water sources, catchments and groundwater aquifers, a statement of rights, duties, management responsibilities, and priorities of use.

Provided that the appropriate Government shall ensure, while preparing the Water Security Plan, that the Plan complements and is integrated with other water security-related plans, such as drinking water security plans that may be required under other laws or government schemes.

**16. Content of Water Security Plans** – (1) The Water Security Plans shall include:

- a) Incentives for switching from water-intensive crops and sanctions against continuing water-intensive crops;
- b) Incentives for the adoption of water-conserving technologies, such as drip irrigation and sprinklers;
- c) Setting up groundwater recharge structures;
- d) Promoting the use of energy-efficient pumps;
- e) Accommodate local traditional non-discriminatory water management practices;
- f) Community based sharing of both surface and groundwater;
- g) Measures for conjunctive use of surface and groundwater;

- h) Ensure equitable use of irrigation water;
  - i) Measures to prevent the wastage of water;
  - j) Removal of obstructions of water bodies and water sources, including their catchment areas and removal of encroachments on surface water bodies; and
  - k) Other measures as may be appropriate to the specific aquifer, watershed and/or River Basin.
- (2) The Water Security Plan shall provide for effective strategies to mitigate and alleviate drought or flood conditions.

**17. Adoption and Validity of the Water Security Plan** – (1) The Water Security Plan shall be adopted as per procedures prescribed by the appropriate Government.

(2) The Water 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:

Provided that where compelling reasons, such as significant hydrological changes or drought, warrant it, the Water Security Plan may be revised or amended before the expiry of five years.

**18. Groundwater Conservation, Protection, Regulation and Management** – (1) Groundwater shall be conserved, protected, regulated and managed through appropriate laws based on the Model Bill for the Conservation, Protection, Regulation and Management of Groundwater, 2016.

(2) The objectives of such groundwater laws shall include:

- a) Ensuring the realisation of the right to life through the provision of water for life;
- b) Meeting livelihoods and basic human needs, and livestock needs;
- c) Promoting sustainable groundwater use in the public interest, based on a long-term protection of available resources;
- d) Ensuring that the protection, conservation, regulation and management of groundwater is integrated with the protection, conservation, regulation and management of surface water to ensure conjunctive use;
- e) Ensuring the implementation of the principle of subsidiarity;
- f) Protecting ecosystems and their biological diversity;
- g) Reducing and preventing pollution and degradation of groundwater;



- h) Ensuring that present and future generations have access to sufficient quantity and quality of groundwater for life; and
  - i) Ensuring protection against gender discrimination and other socio-economic inequalities in access to groundwater.
- (3) The regulation of groundwater shall be in consonance with the principles of non-discrimination and equity, the principles of subsidiarity, the precautionary principle, an integrated approach to groundwater management and shall conform to the constitutional provisions for decentralisation of powers and functions.
- (4) Groundwater is a common heritage of the people held in public trust, for the use of all, subject to reasonable restrictions to protect all water and associated ecosystems. In its natural state, it is not amenable to ownership by the state, communities or persons. The state at all levels is the public trustee of groundwater.
- (5) Groundwater laws shall provide for the setting up of groundwater protection zones, which shall be accorded the highest priority in terms of groundwater protection and regulation and the preparation of groundwater security plans by the appropriate Government.
- (6) Groundwater shall be protected, conserved, regulated and managed primarily by panchayati raj institutions, both rural and urban.

**19. 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:

- a) enforcing recycle and reuse of water;
  - b) minimising the generation of waste in all water uses;
  - c) reducing non-point source of pollution;
  - d) recovering, to the extent possible, water for some use from waste; and
  - e) 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.
- (3) The pollution of water sources and supplies shall be discouraged through the application of the precautionary principle and the polluter pays principle by the appropriate government:

Provided further that in applying the polluter pays principle due regard shall be had for ensuring that the payment by the polluter is quantified on the basis of costs for remediation of water sources and supplies so as to restore

them to pre-polluted condition, while ensuring that the principle is not distorted to mean that payment authorises pollution.

**20. Flood Mitigation and Management** – (1) The Central Government shall develop a Decision Support System (DSS) for flood forecasting and flood inundation under the National Water Informatics Centre (NWIC). Each State Government shall also develop their own DSS to address state-specific issues. The NWIC shall ensure that the central DSS and that of each State is provided adequate and effective linkage.

(2) The appropriate Government shall strive towards mitigating water related disasters like floods, through structural and non-structural measures, with emphasis on flood plain zoning, rehabilitation of natural drainage systems, coping mechanisms and preparation and periodic updating of emergency action plans / disaster management plans.

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

(4) The appropriate Government shall ensure that land use practices are such as to minimize and not aggravate the adverse impacts of floods, including by ensuring that interference in or encroachment upon natural channels and drainage paths are avoided.

(5) 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.

**21. Drought Mitigation and Management** – (1) Each State Government shall prepare a Drought Mitigation and Management Policy and Action Plan within six months of coming into force of this Act.

(2) The Drought Mitigation and Management Policy and Action Plan shall include a drought risk and vulnerability assessment for the State, identify programmes and measures for drought mitigation on the basis of the various indices of drought and shall include the participatory management of irrigation, crop water budgeting, soil and water conservation, agro-forestry, measures that are necessary to reduce soil erosion, augment groundwater recharge and soil moisture, reduce the volume and velocity of run-off and improve the efficiency of water use, amongst other things.

(3) This Drought Mitigation and Management Policy and Action Plan shall include laying down the priorities for use of reservoir/tank storage.

(4) As deficient or irregular rainfall may not replenish water storage in reservoirs to the full reservoir level, the Zilla Parishad shall guide the District Collector to determine the priorities in respect of water use available in reservoirs/tanks:

Provided that the first priority shall be given to the provision of water for life for which sufficient quantity of water shall be reserved in each reservoir/tank.

(5) For inter-district and inter-state reservoirs, the concerned River Basin Authority shall lay down priorities for use of reservoir/tank storage

Provided that the first priority shall be given to the provision of water for life for which sufficient quantity of water shall be reserved in each reservoir/tank.

**22. Water Pricing and Water Regulators** – (1) The pricing of water shall be based on a differential pricing system in recognition of the right to water for life and its multiple roles, being a part of history, culture and religion. The following principles shall guide water pricing:

- a) Water as a part of water for life as defined herein, shall not be denied to anyone on the ground of inability to pay:
- b) Water used for commercial agriculture and for industry or commerce may be priced on the basis of full economic pricing, or higher if needed and appropriate in a given case.

Provided that available water, after meeting the right to water for life, shall increasingly be subjected to conservation and use through allocation and pricing on economic principles so that water is not wasted.

- c) Water used for subsistence or vulnerable livelihoods may be priced at such rates as may be considered appropriate in the relevant socio-economic circumstances and may be left to transparent, participatory and equitable community decisions.
  - d) For domestic water supply, a graded pricing system may be adopted, with full cost recovery pricing for the high-income groups, affordable pricing for middle-income, and a certain quantum of free supply to the poor to be determined by the appropriate Government, or alternatively, a minimal quantum of water may be supplied free to all.
- (2) All States shall establish an independent statutory Water Regulatory Authority for ensuring equitable access to water for all and its fair pricing depending on the purposes for which water is used. The Authority shall function in a transparent and participatory manner, conducting widespread public consultations and hearings before deciding upon tariffs.
- (3) Water charges shall be determined on volumetric basis and shall be reviewed periodically in order to meet considerations of equity and efficiency.

## **Chapter VI: Sectoral Use of Water**

**23. Urban Water Management** – (1) The appropriate Government shall ensure conformity with the Service Level Benchmarks for water supply, sanitation, solid waste management and storm water drainage, as may be prescribed.

(2) Urban water supply shall be metered and priced on a volumetric basis:

Provided that the appropriate Government shall provide sufficient quantity of water for drinking and sanitation free of cost as part of the realization of the right to water for life.

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

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

(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 agencies 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.

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

(2) Water Users Associations (WUAs) shall be accorded statutory powers to collect and retain a portion of Irrigation Service Fees, which will be determined by the WUAs in a transparent and participatory manner:

Provided 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 WUAs shall function as a Committee of the Gram Panchayat but with sufficient autonomy in functioning, through rules to be specified by the appropriate government. (5) The appropriate government shall establish a regular system for water related data sharing, sensitization and capacity building of Gram Panchayats, and WUAs and for their involvement in planning and implementation of water resources projects so as to ensure sustainable management of water and improvement of water quality.

**25. Industrial Water Management** – (1) All industrial units shall make every possible attempt to reduce their water footprint over time.

(2) All companies using large volumes of water (beyond a limit to be specified by the Appropriate Government) shall be required to transparently state their water footprint in their Annual Reports, including information, such as, water utilisation per unit produce, effluent discharge details, rain water harvested, water reuse details and fresh water consumption. They shall also include the outline of a plan to reduce their water footprint over time and a statement of where they have reached every year in the attainment of these goals.

(3) 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.

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

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

(6) There shall be prohibitive penalties to discourage profligate use, with denial of water supply services beyond a threshold, as may be prescribed by the appropriate government.

## **Chapter VII: Access to and Transparency of Water Data, Promotion of Innovation and Knowledge Management**

**26. Data Sharing** – (1) The appropriate Government shall put all water and water-related data in public domain. The data shall contain, but not be restricted to, rainfall, humidity, temperature, wind velocity, evaporation rates, groundwater levels, groundwater quality, surface water sources and water available for irrigation, soils and any other data as considered appropriate for all uses of water.

(2) The data shall be put on an interactive platform in such a manner so as to make the access simple for even a semi-literate user. The interactive platform

shall also contain a list of common questions and answers. The appropriate Government shall also assign a unique village ID to all the villages in the country to make data easily accessible to the rural population. Similarly, a unique ID system needs to be generated for the urban areas as well.

(3) The appropriate Government shall put in place a weather risk management system that will alert the farmers when there is a danger of extreme weather.

(4) The appropriate Government shall provide value added services, including pest and disease alert applications, in combination with the weather forecast that would equip the farmers to handle and manage their crops better.

(5) The appropriate Government shall also put in place a system that detects the amount of water to be provided to a field based on the field water content, biomass and rainfall probability that would aid in optimization of water provision to the crop and ensure efficient crop management.

(6) The use of mobile phone and IVR technology shall be put in place through appropriate apps for the farmer to access the above data.

(7) Water users shall provide groundwater related data to the appropriate Government, such as new tubewell, deepening of tubewell, dug well, pumps, and any water quality issues.

**27. Water Resources Information System** – (1) The Central Government shall develop and maintain a publicly available 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 Technology.

(2) A National Water Informatics Centre shall be established to collect, collate and process hydrologic data regularly from all over the country, conduct the preliminary processing, and maintain it in open, transparent, accessible and user-friendly 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-day 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 feed 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 to the central server hosting IndiaWRIS.

**28. Promotion of Innovation and Knowledge Management** – (1) The appropriate Government shall make all efforts to enable easy access for all stakeholders to knowledge related to all aspects of water management.

(2) The appropriate Government shall promote indigenous knowledge relating to water management in all its aspects.

(3) The appropriate Government shall promote better land-soil-water management with scientific inputs from local research and academic institutions.

(4) 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 the water sector.

### **Chapter VIII: Water Conflicts Prevention and Resolution**

**29. Water Conflicts: Inter-State River Water Disputes** – (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/or resolve emerging inter-State river-water disputes through negotiations, conciliation or mediation, or other such means, at the earliest stages before the disputes become acute, so as to avoid recourse to adjudication as far as possible.

(2) In such efforts, and in the event of adjudication under the Inter-State Water Disputes Act 1956 (as amended in 2002) if it becomes necessary, the following broad principles shall be kept in view:

(a) None of the States in a river-basin owns the river but as public trustees of the water resources of the river, all of them have rights to use the water of the river:

Provided that such use does not violate the right to water for life of any person in the river basin.

(b) All basin States in a river system are equal in rights and status, and there is no hierarchy of rights among them, and further, in this context, equality of rights means not equal but equitable shares in the river waters, as stated in sub-section 2 (e) of this Section.

(c) The upper basin State shall adopt a cautious and minimalist approach to major interventions in inter-State rivers; provide advance information to the



lower basin States about plans for intervention; consult them at all stages on possible impacts; and take care to avoid significant harm or injury to them.

(d) 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.

(e) Where a State-wise allocation of the waters of an inter-State river becomes necessary, such allocation shall be governed by the principle of equitable sharing for beneficial uses.

(f) In any settlement by agreement or adjudication on an inter-State river waters dispute, the principles and modalities of sharing the waters in a difficult year of low flows shall be clearly laid down.

(g) Adjudication, wherever necessary, shall be pursued with goodwill and a willingness to find an acceptable answer to the dispute, including the possibility of an agreed settlement.

(2) The resolution of inter-State river-water disputes, whether by agreement or by adjudication, is not a one-time settlement but shall be recognized as a continuous process of conformity to the spirit of the settlement, and ensuring this shall be among the responsibilities of the institutional arrangements referred to in sub-section (1) of this section.

(3) Data of all kinds needed for the purposes of sub-sections (1) to (3) of this section shall be freely shared by the States concerned and put in the public domain for the information of all without any restrictions on the grounds of confidentiality or secrecy.

**30. Water Conflicts: Other Kinds** – (1) 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, before the dispute or conflict becomes acute, so as to avoid recourse to litigation as far as possible.

(2) All such efforts shall be guided by the principles and priorities laid down under this Act.

(3) Data of all kinds needed for the purposes of sub-sections (1) and (2) of this section shall be freely shared by the authorities concerned and put in the public domain for the information of all without any restrictions on the grounds of confidentiality or secrecy.

(4) Existing water-related conflicts or disputes shall be reviewed and appropriate action taken in the light of the provisions of this Act.

### **Chapter IX: Miscellaneous**

**31. Enforcement of the Act** – (1) States shall, where appropriate, enact laws, rules 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.

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.

**32. 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.

**33. Power of the Central Government to make Rules** -The Central Government shall, within six months of coming into force of this Act issue a Notification, making rules to carry out the provisions of this Act.

**34. Power of the State Government to make Rules** - The State Government shall, within six months of coming into force of this Act, issue a Notification, making rules to carry out the provisions of this Act.

**35. 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.

(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.

## STATEMENT OF OBJECTS AND REASONS

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, etc., a national law on water is even more necessary. Water is as basic as (if not more basic than) those subjects.

Under the Indian Constitution water is primarily a State subject, but it is an increasingly important national concern in the context of: (a) the right to water being a part of the fundamental right to life; (b) the emergence of a water crisis because of the mounting pressure on a finite resource; (c) the inter-use, intra-State and inter-State conflicts that this is leading to, and the need for a national consensus on water-sharing principles, and on the arrangements for minimising conflicts and settling them quickly without resort to adjudication to the extent possible; (d) the threat to this vital resource by the massive generation of waste by various uses of water and the severe pollution and contamination caused by it; (e) the long-term environmental, ecological and social implications of efforts to augment the availability of water for human use; (f) the equity implications of the distribution, use and control of water: equity as between uses; users; areas; sectors; States; countries; and generations; (g) the international dimensions of some of India's rivers; and (h) the emerging concerns about the impact of climate change on water and the need for appropriate responses at local, national, regional, and global levels.

It is clear that the above considerations cast several responsibilities on the Central Government. Some of these can be dealt with only partially under existing laws such as the Environment (Protection) Act 1986, the Water (Prevention and Control of Pollution) Act 1974, and others. On inter-State rivers there are (i) Entry 56 in the Union List which enables the Central Government to act if Parliament legislates for the purpose, (ii) the River Boards Act 1956 enacted under it (which has remained inoperative), and (iii) the Inter-State Water Disputes Act 1956 enacted under article 262 of the Constitution and amended in 2002. However, inter-State rivers and river valleys are not the same thing as 'water' per se, and adjudication is not the only thing that needs to be provided for.

All the aspects enumerated earlier cannot be brought within the ambit of the existing Central laws. Given the concerns set forth above, the need for a national water law is self-evident. Such a law will not preclude the further use of Entry 56, or the re-activation of the River Boards Act, or amendments and improvements to the Inter-State Water Disputes Act.

Several States are enacting laws on water and related issues. These can be quite divergent in their perceptions of water. Various States are formulating their own State Water Policies. Here again, significant divergences are possible. Some divergences of policy and law may be inevitable and acceptable, but they have to be within reasonable limits set by a broad national consensus on certain basics.

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.

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 European Water Framework Directive of 2000.

There has been widespread international legal recognition of the “doctrine of reasonable use” for both surface and groundwater. Article 5 of the 1997 UN Watercourses Convention states: “Watercourse States shall in their respective territories utilize an international watercourse in an equitable and reasonable manner.” Article 4 of the International Law Commission draft articles on groundwater (2008) also states that “Aquifer States shall utilize trans-boundary aquifers or aquifer systems according to the principle of equitable and reasonable utilization”.

The considerations behind these national or supra-national documents are even more relevant for India given the extreme gravity of the water crisis and recurrent droughts occurring in the country, although the specific form of a water law for India will clearly have to be guided by the nature of the Indian Constitution and the specific needs and circumstances of this country.

It was the 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 of 1987 and its revised versions in 2002 and 2012. However, a national water policy has no legal status. A national water law is necessary.

A framework water legislation is not intended to centralise water management or to change the Centre-State relations in any way. It provides 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.

The law incorporates all major legal pronouncements by the Supreme Court with reference to water such as the Public Trust Doctrine and the recognition of the right to water. It incorporates the principle of subsidiarity, as explicated in the 73rd and 74th Constitutional amendments. It includes the prevention and precautionary principles, most recently statutorily recognised in the National Green Tribunal Act, 2010 and the transparency principles of The Right to Information Act, 2005

The law is intended to be justiciable in the sense that the laws passed and the executive actions taken by the Central and State Governments and the devolved functions exercised by panchayati raj institutions will have to conform to the general principles and priorities laid down in the framework law, and that deviations can be challenged in a court of law.