



# India's National Water Policy: 'feel good' document, nothing more

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## ABSTRACT

Three versions of the National Water Policy (NWP) have failed to make any perceptible difference in improving water management in India. The excuse that water is a state subject and thus central government cannot do much is not valid. States have always been a party to the formulation of the NWP. They have the freedom to modify the NWP to suit their individual requirements. Many states have adopted a state water policy. Even such state-level policies have failed to make any significant impact in improving their water management practices. Neither the NWP nor the state water policies have made any impact on practice. Reasons for the NWP basically being a paper exercise are many, including lofty drafting and policy prescriptions that are divorced from reality; lack of courage at the Water Ministry to take a firm stand on any of the provisions at either the drafting or the implementation stages; the practice of keeping specialists away from policies; and the dominance of generalists who have neither a demonstrable understanding of the complexities of the water sector nor a long-term commitment to it.

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## Introduction

The first Indian National Water Policy (NWP) was adopted in 1987 (Ministry of Water Resources, 1987). At that time a formal NWP was not very common in any country of the world. India, along with Mexico, was among the first two developing countries to adopt an NWP (Biswas, Herrera, Garduño, & Tortajada, 1997; Suryanarayan, 1997). Since then, the Indian NWP has been revised twice: in 2002 (Ministry of Water Resources, 2002) and 2012 (Ministry of Water Resources, 2012). Since India has had an NWP for over three decades, it is now an appropriate time to examine whether the NWP has had any perceptible impact on improving water management practices in the country, and if not, why.

The *Oxford English Dictionary* defines policy as 'a course or principle adopted or proposed by an organization'. The Food and Agriculture Organization (FAO, n.d.) further defines policy as 'a definite course or method of action selected (by government, institution, group or individual) from among alternatives and in the light of given conditions to guide and, usually, to determine present and future decisions'. It further

notes that 'a policy is a set of coherent decisions with a common long-term purpose(s). When decisions are one-off, ad-hoc, incoherent or opportunistic, complaints are made that a government or minister "does not have a policy." Government policies are often supported by special legislation'.

An NWP should not be a lofty statement about how a country wishes things to be. Rather, policy should be a realistic and achievable statement of how water should be planned and managed so that it results in desired social, economic and environmental outcomes. It is within this overall framework that the effectiveness and performance of an NWP should be examined. Has it succeeded in moulding or steering the outcomes towards the stipulated goals and objectives, or has it remained primarily as a paper exercise with very limited, if any, improvements in water management which may have occurred even without the NWP? This question can be best answered by examining the practice before and after the NWP on a few selected key issues.

### **Formulation process of the NWP**

The critics of the NWPs, mainly civil society actors, have spread and carefully nurtured a narrative that the NWPs are drafted and imposed upon the nation by a handful of bureaucrats and technocrats from the central water ministry. Nurturing this perception holds several benefits for them. First, the NWP can be discredited merely by accusing it of being influenced by the so-called 'big dams lobby'. Second, it enables the critics to disown any share of responsibility for failure of the NWPs. Third, it helps them enhance their own image in the water sector matrix, the argument being: if the stakeholders were consulted, the NWPs would have come out more meaningful, useful and effective. And finally, the argument that 'it is *their* NWP since we were not consulted' enables everyone else, even the functionaries in other ministries, to disown the NWP. They may not disown it formally, but they do disown it for all practical purposes. Therefore, at the outset, it would be useful to review how successive NWPs were drafted.

The NWP is adopted by the National Water Resource Council (NWRC), which was established in March 1983. The Prime Minister of India is the Chairman of the NWRC and the Minister of Water Resources is the Vice-Chairman. Members comprise of Minister of State for Water Resources; the Union Ministers or Ministers of State from a few related central ministries; Chief Ministers of all the states; and Lieutenant Governors/ Administrators of all the Union Territories. Secretary, Ministry of Water Resources (MoWR) is the Secretary of the NWRC. This composition makes the NWRC the highest level policy-making body in the country, on any issue. However, on the flip side, when the chair of a council is placed on the highest political level of the prime minister, it is axiomatic that the council will not be able to meet often and will not be able to devote much time to the task assigned to it. In fact, as far as could be ascertained from the public records available, it seems the NWRC meets only to adopt the NWP, which is approximately for one day once every decade. This means, for all practical purposes, the Council has not been, nor will ever be, an effective body if it meets only once every 10 years.

There is also a National Water Board (NWB), which is chaired by the Secretary, MoWR. Its members include Secretaries of the Union Ministries of Agriculture, Rural Development, Urban Development, Surface Transport, Environment and Forests, Planning, and Science and Technology; Chairman, Central Water Commission (CWC);

and Chief Secretaries of all the States and Union Territories. Its Member Secretary is the Member for Water Planning and Projects of the CWC. The NWB reports to the NWRC.

The process followed is that the draft NWP is first examined by the Board. Changes are made based on the inputs received from the Board members. The draft is then finalized by the Board and then sent to the Council for its assessment and review. The Council then finally approves the NWP.

## **Public consultations**

For both the 1987 and 2002 NWPs, the first drafts were prepared in-house by the Water Resources Ministry. Consultations with the civil society and stakeholders were for the most part negligible. Not surprisingly, both the policies were severely criticized by many stakeholders for the absence of any meaningful consultations. Stung by these widespread and sustained criticisms, when the 2002 NWP was due for a revision, the Water Ministry went out of its way to hold wide-ranging and structured consultations with the elected representatives, civil society actors interested in water issues and other stakeholders.

Consultations were held with Members of the Parliamentary Standing Committee on Water Resources, Consultative Committee for MoWR and Parliamentary Forum on Water Conservation and Management, on 28 July 2010; with academia, experts and professionals, on 26 October 2010; non-governmental organizations (NGOs), on 11 and 12 January 2011; representatives of the corporate sector, on 21 March 2011; and finally with representatives of Panchayat Raj (local self-government at village level) at Hyderabad on 16 June 2011, at Shillong on 30 June 2011, at Jaipur on 14 July 2011 and at Pune on 2 November 2011. For these meetings, representatives from nearby areas were paid travel expenses to enable them to attend in person. Arrangements were made for representatives from distant areas to participate in real time by video conferencing. For a summary of all these discussions, see the website of the Ministry (Ministry of Water Resources, River Development & Ganga Rejuvenation, 2018).

## **Drafting committee**

A drafting committee was constituted comprising S. R. Hashim, former Member, Planning Commission and former Chairman of Union Public Service Commission; Subhash Chander, former Professor of Water Resources at IIT, Delhi; A. D. Mohile, former Chairman, CWC, and S. C. Jain, an NGO representative. This committee was supported by a team of officers from the Water Ministry, including the CWC, Central Ground Water Board, National Institute of Hydrology, Planning Commission and National Rainfed Area Authority. These officers were not members of the drafting committee. They played only a supporting role. The summaries of the consultation meetings were made available to the drafting committee.

The first draft of NWP 2012 was made available on the website of MoWR on 31 January 2012. Comments were invited from the people at large. The draft was also circulated to all state governments and related union ministries for comments. More than 600 comments were received from the general public. Taking these into consideration, the drafting committee revised the draft. This revised draft was considered by the NWB during its meeting of 6 July 2012. The draft agreed to by the Board was circulated

amongst all states, union territories and related central ministries. The draft policy was also discussed with the Consultative Committee of Parliament attached to the Water Ministry. Finally, the draft was considered by the Council during its sixth meeting held on 28 December 2012. This concluded an extensive consultation and drafting process that extended over two years.

This means that the NWP of 2012, unlike its two earlier counterparts, went through an extensive consultation process with relevant stakeholders. In fact, very few, if any, policy documents of the Indian government on any sector have ever undergone similar elaborate and extensive consultations with various stakeholders. If anyone had any concerns with any aspect of the draft policy, at any stage, they had full opportunity to raise them. Thus, the policy cannot be disowned by any constituent that participated in the process, especially by any central ministry, state government and union territories administration, who were all party to its formulation throughout the entire process. This is an important finding of this assessment.

Unfortunately, while a good consultation and drafting process is a necessary condition to produce a worthy NWP, it is not a sufficient condition, and does not necessarily ensure a decent outcome in terms of producing a policy document that is implementable, and which is likely to improve water management in the country.

## **Basin as unit for all water resources planning**

The 1987 Policy (clause 3.2) stated:

Resource planning in the case of water has to be done for a hydrological unit such as a drainage basin as a whole, or for a sub-basin. All individual developmental projects and proposals should be formulated by the states and considered within the framework of such an overall plan for a basin or sub-basin, so that the best possible combination of options can be made.

NWP 2002 (clause 3.3) repeated the same philosophy almost verbatim, with only minor change of words.

The 2012 Policy (clause 1.3) enumerated what it called the basic principles of planning, development and management of water resources. Principle (vii) stated that the 'basic hydrological unit is the river basin, which should be considered as the basic hydrological unit for planning'. Further, clause 12.4 states: 'Integrated Water Resources Management (IWRM) taking river basin/sub-basin as a unit should be the main principle for planning, development and management of water resources.'

Planning, developing and managing water resources with basin as a hydrologic unit has been emphasized in all the three versions of the NWP. Thus, at least three fundamental questions arise. First, how many basin plans have been prepared, and further development is being done as per these plans? The answer, sadly, is none. No such plans have been prepared for any basin, and none is in the pipeline. For interstate basins, planning and development of water resources continue to be done by the each state separately for the part of the basin that is within that specific state. Moreover, even within a state, it is done for individual projects and not for the sub-basin. The concept of basin-level planning has continued to remain only on paper ever since the first NWP was approved in 1987, more than three decades ago. This can perhaps be explained by the

fact that for the large interstate river basins, such planning and management are not feasible under Indian legal, social and political contexts.

Second, this begs an additional fundamental question. With several inter-basin water transfers existing, and many more being pursued, what should be the definition of a hydrological unit like a drainage basin? Furthermore, in the Indian context, all major rivers basins are interstate, and individual states are responsible for water resources development and management. Around 65% of the population depends on agriculture. Water is a key input for rural livelihoods, and thus always has been a key emotional and political issue. Under these circumstances, it is almost an impossible task to formulate basin-wide management plans, let alone implement them. Given longstanding animosities between the states on interstate rivers, with each state demanding increasingly higher allocations of water over the years, even when waters of the rivers have often been over-allocated during years of moderate droughts, it is unrealistic, and even utopian, to expect that basin- or even sub-basin-wide plans can be formulated, let alone be implemented.

Historically, in India, basin-wide planning in interstate rivers has never been possible (Biswas, Rangachari and Tortajada, 2009). There are no signs that this will be possible within the next several decades. Yet, NWP have consistently proposed this idea, and the states have not raised any objections to it, let alone its implementation.

It should be further noted that the concept of basin-wide planning has worked only in a very few European rivers. These are all significantly smaller in scale than the major interstate Indian rivers. Take for example the Ganga-Brahmaputra River. The scale and complexities are simply far too big for any basin-wide planning. Individually, even the Ganga and Brahmaputra river basins, at 861,452 km<sup>2</sup> and 194,413 km<sup>2</sup> respectively, are very big to plan. Even if a major tributary of the Ganga, such as the Yamuna, is considered, it is still too big and complex to plan. Furthermore, in the few European rivers where basin-level planning has been implemented, the main focus has been on water quality and not on quantity. In India, the emphasis has consistently been on the reverse: political, public and management focus has always been on water quantity and its allocation between the provinces and *not* on quality.

The third fundamental question relates to integrated water resources management. This is a seductive concept that has been around for at least 70 years (Biswas, 2004, 2008). During this period, not even a single moderately sized river has been planned in an 'integrated' manner, however it is defined, in any country of the world. Given the institutional and political complexities of important Indian rivers, as well as their large scales, it is impossible to plan them on an integrated basis. Mohile, former Chairman of the CWC, considered IWRM implementation has been done at most by 'bits and parts' (Mohile, 2005).

The Constitution of India squarely places water resources development and management in the domain of individual states, and this is often blamed for lack of a basin-level perspective in water resources management. However, the lack of progress on the basin as a unit of planning cannot be attributed to this constitutional provision alone because all states have been parties to the three versions of the NWPs. They agreed to clauses in the NWP stipulating the basin as a unit for all planning, being fully aware that water is a state subject, and thus basin-wide planning of interstate rivers is not possible. In any

event, there is even no explanation as to why there had been no basin-level planning even for those rivers that are exclusively within one state as recommended by the NWP.

### River basin organizations

Since most of the larger basins are interstate, the planning and development of water resources with a basin as a unit requires a basin-level perspective and having a functional platform where all the relevant states are represented, and where such planning can be conducted. All versions of the NWP have recommended the establishment of river basin organizations (RBOs) that will take a basin-wide approach to water planning and management. NWP 1987 (clause 3.3) stated: 'Appropriate organisations should be established for the planned development and management of a river basin as a whole.' NWP 2002 stated the same thing under clause 4.2. NWP 2012 went a step further and stated in clause 2.3 that comprehensive legislation needs to be enacted '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'.

Thus, the need to establish RBOs runs consistently through all three versions of the NWPs. It has to be because without RBOs the 'basin as a unit for planning' (Kumar, 2018; Thatte, 2018) cannot be implemented. The question that needs to be asked is: what has been the progress during 30 years from 1987 to 2017? How many multi-state RBOs have been created? Has the legislation stated in NWP 2012 been enacted? If not, is it at least in the pipeline? The answer again is: no progress at all. Not a single multi-state RBO has been created, and none is planned. The legislation suggested in NWP 2012 has not even been drafted, far less enacted. Furthermore, in our view, such policy recommendations cannot be implemented either now or in the foreseeable future.

In 2003, the Water Ministry made an attempt to arrive at a consensus with the states on the structure, powers and functions of RBOs. However, no consensus could be reached despite the fact that the intention was to constitute RBOs whose role would be only advisory. Even then, the states did not agree to such an arrangement. Not surprisingly, during the past 15 years, not even one serious attempt was made to establish an RBO, presumably because everyone knew it could not be done.

The drafting committee for NWP 2012 was fully aware of all the history, including the reluctance of the states to constitute RBOs and implement basin-level planning. The committee was equally aware that integrated water resources management, however defined, can never be implemented under Indian conditions. Yet, all these unworkable and unimplementable concepts were included under clause 2.3 of NWP 2012. What is surprising is that no state objected to these impractical clauses, neither when they were examined during the draft stage of the NWP nor when they were adopted by the NWRC. This is indeed surprising. If the implications of a clause are not acceptable to an entity, one would expect the said entity to object to that clause and request appropriate amendments that are acceptable and implementable. However, no state registered an objection to the clauses for creating the RBOs, or noted the impracticability of operationalizing IWRM, which never has been accomplished for any large river basin anywhere in the world, let alone in India. In the absence of any plausible explanation, it is reasonable to assume that all the parties had realized that the policy was only a paper exercise for 'feel good' purposes, and no one really believed that the establishment of RBOs was really intended and/or even desirable.

## Internal contradictions

The authors of the NWP seem to be influenced by two forces pulling in the opposite directions: the engineering perspective and the compulsion to be politically correct. These have resulted in several internal contradictions. For example, clause 4.2 of NWP 2012 recommends the revival of traditional water-harvesting structures and water bodies. However, this goes against the concept of a basin as a unit for all planning. It is a common belief amongst water sector thinkers in India that traditional water harvesting will not make any significant difference to the hydrologic regime of a basin. They do not seem to realize that if traditional water harvesting does not make a significant difference, then it is not worth doing. Equally, if it is worth doing, then it should make a perceptible and measurable difference. This results in contradictory recommendations of basin-level planning as well as traditional water harvesting.

Another example of internal contradiction is clause 1.3(iv) of NWP 2012, which says '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.' The public trust doctrine, which dates back to the ancient Roman Empire, stipulates that certain natural resources have a great importance for the people as a whole, and thus cannot be allowed to be under private ownership. The doctrine requires affirmative action by the state for the effective management of resources. However, nowhere in the NWP does one see any provisions that empower the state to take affirmative action for the management of water resources. On the contrary, concepts such as management by a community dilute the authority of the state and go against the public trust doctrine.

## Water allocation priorities

When the total demand for water exceeds availability, the allocation of water to competing users becomes a very complicated and vexatious issue. NWP 1987 took the route of listing allocation priorities. Clause 8 listed the water allocation priorities as drinking water, irrigation, hydropower, navigation, and industrial and other uses. In NWP 2002, this was modified to drinking water, irrigation, hydropower, ecology, industries, and navigation and other uses. It introduced 'ecology' as a new claimant, at priority number 4, and 'industry' was brought before 'navigation'. The placing of ecology at priority number 4 in NWP 2002 was severely criticized by civil society groups. They wanted ecology to be placed second, after drinking water. What should be the relative priorities is not the focus of this paper. That is a different debate that has yet to take place seriously in India. The issue here is the NWP, as adopted by the NWRC, placed ecology as priority number 4. The Ministry of Environment and Forests was a member of the NWRC and thus was a party to this decision. Therefore, one would have expected this priority sequence to be implemented.

Consider how NWP 2012 dealt with the complex issue of environmental flows (EFs). NWP 2012 did away with the priority system, and states, in clause 1.3(vi):

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

Thus, NWP 2012 placed non-drinking domestic needs, irrigation for food security and sustenance agriculture, and minimum ecological needs on an equal 'high priority' footing. It should further be noted that NWP 2012 introduced a new concept of *minimum* ecological needs, and stipulated that only *minimum* ecological needs, and *not* all ecological needs, were to be given a high-priority allocation.

The reality is that ecology has been, and will continue to be, the second priority, next only to drinking water. This is because all river development projects need an environmental clearance (EC), which is given by the Environment Ministry (Pandit, 2014). This ministry first takes out what it perceives as the requirement for the ecology, like a tax deduction at source, and only the remaining water is available for allocation to other uses. If the remaining water is not sufficient to make the project viable, that is just too bad! While determining the EFs, no reference is made to the NWP, which says only the *minimum* ecological needs, and *not* all the ecological needs, are to be given high-priority allocation.

Whether the fourth priority for EFs in NWP 2002 or the high priority allocation for only the *minimum* ecological needs in NWP 2012, these are all only paper statements. Neither the Water Ministry nor the Power Ministry has ever demanded that the EF estimations be guided by the provisions in the NWP, even though these institutions were parties to its formulation and approval processes.

### **Lack of policy research**

A policy statement has to emerge out of, and be backed by, sound policy research and analyses. However, NWP 2012 contains ideas that are clearly not based on any serious policy research. A glaring example is clause 9.3, which says: 'Considering the heavy economic loss due to delay in implementation of projects, all clearances, including environmental and investment clearances, be made time bound.' This gives an impression that the clearances are delayed because of bureaucratic lethargy, and making the clearances time bound is the solution. The reality is quite different.

The CWC, which evaluates the techno-economic feasibility of a project and recommends it for investment clearance, is fully aware of the need to speed up the clearance process and has periodically issued instructions to make the process time bound. Yet, there is delay because detailed project reports (DPRs) are invariably deficient, which in turn is on account of inadequate investigations and analyses. Most DPRs go through several iterations of appraisal by the CWC, modification of the DPR by the project proponent and reappraisal by the CWC. All these take time in spite of the best of intentions.

Environmental clearances (ECs) of all important development projects are issued by the Ministry of Environment and Forests. The ministry is also fully aware of the time factor and has made the process time bound. In fact, it is uncommon for the EC to be delayed. The delay in the implementation of projects on environmental considerations usually starts after the EC is issued. An amazingly complex set of environmental rules and regulations allows anyone to challenge any project in the judicial forums through a channel called Public Interest Litigation (PIL), on the grounds that it has violated some rule or the rights of the people. A 'stop-work' is issued by the courts/tribunals without detailed scrutiny being made of the merits of the complaint, and thereafter the court proceedings may take several years, during which period the project work comes to a standstill.

The Sardar Sarovar dam on the Narmada River and the Tehri dam on the Bhagirathi River are examples of work that were stalled for periods exceeding five years. Moreover, the environmental activists seldom file the PIL while the project is being examined for its various clearances. The PIL, which has now become a fact of life, is invariably filed after the project has received all the necessary clearances. Therefore, scrutiny by government and scrutiny by the courts take place sequentially, not in parallel. The solution lies not in making the process of EC time bound, which it already is, but in streamlining the runaway environmental activism that has become very common in India for any major water development project.

Another example of lack of policy research is clause 3.3, which says: '[...] A portion of river flows should be kept aside to meet ecological needs [...].’ There was no need for this pious homily, because ensuring EFs is already an important component of the environmental management plan, and the EC is not granted unless the Environment Ministry is satisfied that EFs have been provided for. In fact, the problem is made more complicated since the Environment Ministry often seeks EFs so large that the remaining water is not sufficient to make the project viable. There is no agreement as to how the ecological needs of a river be reasonably estimated, not only in India but also in most countries of the world.

### **Superfluous words, non-specific suggestions**

Then entire text of the NWP is strewn with superfluous words and suggestions that at first reading may appear sound but they are not specific and therefore of not much real use. Two phrases that stand out on this count are ‘to the extent feasible’ and giving ‘due considerations’.

Existing programmes such as the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) are to be used ‘to the extent possible’ (clause 5.6); social needs are to be managed in an integrated manner ‘to the extent possible’ (clause 8.1); encroachments and diversion of water bodies is to be restored ‘to the extent feasible’ (clause 8.2); and all water resources projects are to be planned as multipurpose projects with provision of storage ‘to the extent feasible’ (clause 9.7). In all these examples, the phrase ‘to the extent possible/feasible’ was unnecessary. Of course, anything is to be done only to the extent it is possible/feasible. There is no question of prescribing or attempting something even if it was not possible/feasible. It is difficult to understand what exactly the authors of the NWP intended to convey by qualifying every proposed action with such vague and unspecific phrases.

Another example of non-specific prescription is the phrase ‘due consideration’. Water resources projects are being implemented in a fragmented manner without giving due consideration to optimum utilization etc. (clause 1.2.vii); minimum ecological needs are to be given due consideration (clause 1.3.v); the unique needs and aspirations of weaker sections of society are to be given due consideration (clause 9.6); and leakages and pilferages in urban water supply are to be reduced taking into due consideration (the) social issues (clause 11.3). Sadly, nowhere does the policy explain what exactly is meant by ‘due consideration’. Perhaps it is because the authors of the policy were themselves unsure about how much consideration is meant by due consideration. Clause 11.3 particularly stands out as an example of poor drafting. ‘11.3 Urban domestic water systems need to

collect and publish water accounts and water audit reports indicating leakages and pilferages, which should be reduced taking into due consideration social issues.' This could mean that there are social issues that may justify leakages and pilferages.

### Other NWP considerations

One can list many other similar clauses that have had no impact on practice. For example, NWP 2012 recommended that an autonomous centre for research on water policy should be established to evaluate the impacts of policy decisions and to evolve policy directives for changing scenarios of water resources, planning and management. Even after six years, no such centre has been established, or is even under consideration at present. In fact, there is virtually no serious research on water policy in governmental institutions at either the centre or the state institutions. If there were, then NWP 2012 would not have repeated the need for basin-level planning, RBOs and IWRM without first examining why it has not happened over the last 25 years, between 1987 and 2012, and whether these are feasible and implementable policy options.

NWP 1987 (clause 7.2) stated: 'Exploitation of ground water resources should be so regulated as not to exceed the recharging possibilities, as also to ensure social equity.' NWP 2002 repeated this verbatim: even the clause number is identical! NWP 2012 worded it differently and expanded it to: 'water, particularly, groundwater, needs to be managed as a community resource held, by the state, under public trust doctrine to achieve food security, livelihood, and equitable and sustainable development for all. Existing Acts may have to be modified accordingly'. However, the extraction of groundwater in the country continues to be unregulated and unabated. Not only is there no visible effort towards regulations and their implementation but also a perception has been created that artificial recharge will restore groundwater to levels that existed some decades ago. The importance of reducing extraction by managing demands has been conveniently overlooked.

The best example of an NWP being drafted without conducting any serious policy research is the support to public-private partnership (PPP) in the water sector. In NWP 2002 (clause 13), it states:

Private sector participation should be encouraged in planning, development and management of water resources projects for diverse uses, wherever feasible. Private sector participation may help in introducing innovative ideas, generating financial resources and introducing corporate management and improving service efficiency and accountability to users. Depending upon the specific situations, various combinations of private sector participation, in building, owning, operating, leasing and transferring of water resources facilities, may be considered.

What an emphatic statement! Sixteen years have passed since then. There are few PPP projects even in the urban water supply sector, let alone in the overall area of water 'planning, development and management'. Interestingly, however, the Ministry of Urban Development (MoUD) had been promoting PPP for urban water supply even without and before NWP 2002. Even then, its implementation progress in the country has been limited. In the irrigation sector, there has not been even a single PPP project, nor is one

likely in the foreseeable future. NWP 2012 diluted this strong support for PPP significantly and substituted it with:

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

### **What went wrong?**

The reasons for the abject failures of implementation of the NWPs are many. The three most important are a lack of pragmatism, a lack of sincerity and a lack of commitment by all parties. Many of the provisions suggested by the NWPs may be conceptually attractive but are not practical ideas for the Indian social, economic, cultural and political conditions. For implementation, NWPs must be realistic and practical, and strong political and bureaucratic support is essential at all levels of government (central, state and municipal) to translate these into actions. Sadly, all these have been conspicuous by their absence for all the three policies.

A failure to create RBOs, implement basin-level planning, regulate groundwater extraction and implement IWRM point to a lack of understanding of the complexities of water resources management under the Indian conditions, and lack of consistent support both at central and state levels, as well as in-depth policy studies of what may, or may not, work under Indian conditions.

Water bureaucracy and technocracy also has to accept its share of the blame. The failure of PPP provision in NWP 2002 is entirely its failure. The civil society organizations have raised some valid concerns, that is, how the interests of the poor will be protected; how the private sector operator will be prevented from gaining undue control of water resources at source; will it become a case of private profits but public risks; issues such as moral hazards etc. The water bureaucracy and technocracy have had not only no realistic answers for any one of these concerns but also there are no visible signs that they have searched or are searching for any. The formulator of these national policies never seriously considered any one of these serious and complex issues. Not surprisingly, they did not know how to respond to them.

Even for the basic issues of urban water management such as who will decide the tariffs and based on what criteria; and the establishment of an independent regulator that is essential for allowing the private or public sectors in a vital and politically sensitive issue like water had not been seriously discussed. During the run up to the World Water Forum at Kyoto, Japan, in March 2003, the PPP was 'fashionable'. It seems that is the reason why this was endorsed so enthusiastically in NWP 2002 without giving much thought about its feasibility of implementation under Indian social, political and cultural conditions. Similarly the drafters of the NWPs were seduced by the international movement primarily by Western European nations that the IWRM is the panacea solution for water management, even though the same nations that have been the main promoters of the IWRM have never succeeded in implementing it in their own countries. To our knowledge, these types of serious issues were not even raised during the policy-formulation stage, let alone seriously debated.

## ‘Should’ word

The lack of commitment in the entire approach to NWP is seen even in the style of the language used in all the three versions. Everything is worded ‘should’ or ‘needs to be’. For example, ‘Utilisation in all these diverse uses of water *should be* optimized and an awareness of water as a scarce resource *should be* fostered’; ‘The anticipated increase in variability in availability of water because of climate change *should be* dealt with by increasing water storage in its various forms’; or ‘reducing soil erosion and improving soil fertility *should be* promoted’ (emphases added). It is puzzling as to why the policy notes that all these things *should* be done and does not ever say something will be done, and also by whom.

Clause 5.1 of NWP 2012 says: ‘The availability of water resources and its use by various sectors in various basin and States in the country needs to be assessed scientifically [...]’. The choice of the phrase ‘needs to be’ raises some very fundamental questions. One may pardon the ‘should be’ with reducing soil erosion and improving soil fertility, because both subjects are in the jurisdiction of the Ministry of Agriculture and not the Water Ministry. The latter cannot force the former into something since it does not have the necessary authority. However, the water resources assessment is entirely within the jurisdiction of the MoWR. Furthermore, since it is only an assessment, it does not need the enactment of any additional legislation, nor any approval from parliament or from the states. Mere assessment will not lead to any political fallout. The fundamental question then is: who is the intended recipient of the advice that the water resources *need to be* assessed scientifically? An objective reader may justifiably ask if the water resources need to be assessed scientifically, and it is completely within the purview of the Water Ministry: it would simply go ahead and do it. There is nothing stopping the Water Ministry from carrying out such an assessment which is needed. It is worth asking what prevented the ministry from saying: ‘The availability of water resources [...] in the country *will be* assessed scientifically.’

This is not just hair-splitting over words. The liberal use of ‘should’ and ‘need to’ phrases suggests that somewhere, deep in the subconscious, all actors were aware that drafting the NWP is just a ‘feel good’ exercise, and the various actions the NWP says should be or need to be taken are actually not feasible.

Contrast this with the NWP of Bangladesh (Ministry of Water Resources, 1999):

The Water Resources Planning Organisation (WARPO) [...] will prepare, and periodically update, a National Water Management Plan (NWMP). [...] The plan will be executed by different agencies as determined by the Government from time to time. [...] The NWMP and all other related plans will be prepared in comprehensive and integrated manner. [...] The planning methodology will ensure co-operation across sectors and people’s participation in the process.

Note the use of the assertive ‘will be’ instead of the advisory ‘should be’ or ‘needs to be’ of India’s NWP. This forcefulness comes out the best in the clause 4.3 of the Bangladesh policy which states:

4.3 Water Rights and Allocation. The ownership of water does not vest in an individual but in the state. The Government reserves the right to allocate water to ensure equitable distribution, efficient development and use, and to address poverty. The Government can redirect its use during periods of droughts, floods, cyclones, and other natural and man-

made disasters, such as contamination of groundwater aquifers that threaten public health and the ecological integrity. Allocation rules will be the formal mechanism for deciding who gets water, for what purpose(s), how much, at what time, for how long, and under what circumstances water use may be curtailed.

The language of the Bangladesh water policy makes it clear that they mean business. In contrast, clause 1.3 of India's NWP 2012: 'Safe Water for drinking and sanitation *should be* considered as pre-emptive needs. [...] Available water, after meeting the above needs, *should be* allocated in a manner to promote its conservation and efficient use' (emphasis added), equally makes it clear that this is nothing more than pious loud thinking.

## What next?

For the next version of the Indian NWP, here are few practical suggestions.

- *Management approach and not the ideological approach.* There are two ways to draft a water policy, or for that matter any policy. The ideological approach is where one decides *a priori* the actions that are acceptable and unacceptable. This approach makes no prior commitment to achieving any particular targets. The other option is the management approach that decides *a priori* what targets need to be achieved, how these may be achieved and tries to formulate a policy to achieve those targets within a reasonable timeframe and cost-effectively. The management approach neither favours any actions nor is averse to any actions on ideological grounds. It seems that the three versions of the NWP have been drafted following the ideological approach. The fourth version must be drafted as per the management approach which will make a difference to water management in the country.
- *Identify what works or does not work.* An objective and comprehensive study should be commissioned to perform a clause-by-clause review of NWP 2012. For each clause, assessment should state what impacts, if any, it has had on the practice; if the impact is assessed as nil or close to nil, then the reasons thereof; and whether these reasons can be remedied. If the reasons seem insurmountable, if any provisions seem to be unlikely to work under the Indian conditions, then these provisions should not be in the new NWP, irrespective of their international or even national popularity.
- *Be assertive.* In the next version of the NWP, the phrase 'Should be' should be banned; and the phrase 'Needs to be' needs to be dropped. What needs to be done and can be done must be emphatically stated.
- *Responsibility and timeframe.* For every clause that says something 'will be' done, it should also note in the clause itself who exactly will do it, within what timeframe and what preceding actions are a prerequisite to doing it. The provisions in the NWP have to be SMART: specific, measurable, attainable, realistic and time bound.
- *Policy research.* Every idea in the next NWP must be backed by sound policy research. Sadly, water policy research in government research institutions or academia has been neglected badly in the country. Instead of merely placing in the public domain a collection of feel-good clauses, the next draft NWP needs to stipulate clearly what policy is necessary, whether it can be successfully implemented, how it will be achieved, how it will be implemented and by whom.

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