



**ENVIRONMENTAL LAW
RESEARCH SOCIETY**

WATER LAW & POLICY IN INDIA

CAPACITY BUILDING WORKSHOP

Chitrakoot, Uttar Pradesh

29 & 30 August 2010

1. INTRODUCTION

Water law and policy framework in India has undergone significant changes in the last couple decades. Given the complex nature of the law and policy framework, the awareness among common people is minimal or nil. This is an irony given the fact that recent law and policy changes call for ‘users’ to be as a key player in the management and development of water.

In this background, Environmental Law Research Society organized a two day capacity building workshop in association with Vanangana, a civil society organization working to empower rural women in Chitrakoot district, Uttar Pradesh. The workshop was aimed to enhance awareness about water laws and policies.

2. ABOUT PARTICIPANTS



Figure 1. Participants at the workshop

The participants were from rural background and represented the marginalized/backward community of the Society. There were total 27 participants in the workshop of which 24 were women. Some of the participants were associated with Vanangana and have involved in various community oriented water projects. During the workshop, it was observed that they were completely ignorant about the water laws and ongoing reforms.

3. SESSION OUTLINE

Following were the major issues/topics along with brief points which were covered in the workshop:

1. Introduction to Water Laws and Policies in Uttar Pradesh

- Laws related to water deals with ownership, access and control of water resources.
- Linkage between the landownership and water rights in the water laws.
- The present laws related to water is mostly beneficial to landowners and the marginalized communities and landless farmers are at the loss.
- Ignorance of such laws by the marginalized community has added to the problems encountered by them particularly caste based discrimination.
- There is a strong need for enhancement of understanding of water laws and ongoing changes in water sector.

2. Human Right to water

- Drinking water has been recognized as fundamental human right as per Article 21 of the Indian Constitution.
- Supreme Court of India and various High Courts have recognized this right in various cases.
- All human beings are entitled to equal and non-discriminatory supply of a sufficient amount of safe water.
- Civil Society Groups can play crucial role by raising awareness regarding fundamental human right to water.
- Fundamental human right to water should be included in ongoing reforms in water sector. Hence there should be a legal mechanism to implement human right to water.

3. Rural Water Supply- Swajaldhara and National Rural Drinking Water Programme 2010

- Accelerated Rural Water Supply Programme (1972) was the first such national level policy framework for water supply in rural areas.
- Swajal project led to the formation of Swajaldhara guidelines. The guidelines adopted and implemented the principles of community participation and decentralisation.

- The new policy framework on rural water supply was adopted namely National Rural Drinking Water Programme (NRDWP). Almost all existing programmes have been subsumed in NRDWP. NRDWP calls for an integrated approach seeking to converge related sectors such as health, education and rural employment.

4. Privatization

- Major potential Impacts of privatization are:
 - High pricing of water supply
 - Water will turn into a tradable commodity
 - Marginalized and vulnerable section of the society will not be able to afford the water since it will be traded as commodity
- Current water law/sector reforms encourage public sector privatization.

5. Uttar Pradesh Water Management and Regulatory Commission Act, 2008

- The act establishes a new institution, namely the Uttar Pradesh Water Management and Regulatory Commission.
- One of the major objectives is the depoliticization of the regulation of water resources by establishing an institution where government has no control or least control.
- The commission deals with water allocation.
- The law was passed without significant public consultation particularly at the rural level.
- It is worried that there is no adequate mechanism to ensure accountability.
- There is also no adequate mechanism to ensure that the interests of poor and marginalised are properly represented in the working of the Commission.

6. Uttar Pradesh Participatory Irrigation Management Act, 2009

- Participatory Irrigation Management means greater participation of water users in the management of irrigation systems.
- Water Users' Associations are dominated by the land owners hence the marginalized community/landless farmers may be excluded and adversely affected.

4. KEY ISSUES EMERGED

A. LACK OF AWARENESS

Lack of awareness about the law and policy framework is still a major issue in rural India. All participants were completely unaware of the law and policy changes happening across the country in general and in Uttar Pradesh particularly. Participants were ignorant about the fact that Uttar Pradesh Water Management and Regulatory Commission Act, 2008 and Uttar Pradesh Participatory Irrigation Management Act, 2009 have come into force, not to mention the awareness about the scope and implications of these laws. Similarly, human right to water and right to sanitation still remain as ‘alien’ ideas. Therefore, there is a strong need for vigorous and continuous dissemination of information about water sector reforms and water law reforms with special focus on rural areas.

B. LACK OF PARTICIPATION

The lack of public participation in law and policy making process is a collateral impact of lack of general awareness. Mostly, law and policy making process follow a top-to-bottom approach where people are at the receiving end having no role to play in the framing of norms and regulations. This situation is worse in rural areas where significant number of people cannot read and write. In this context, it could be said that the idea of public consultation in the law and policy making process mean hardly anything to rural people. This means, a lot of effort needs to be put to make a bottom-to-top approach work in law and policy making process.

The idea of participation is also important from the angle of implementation of various policies. The workshop depicts that people are unaware of implementation of various projects in their panchayat which are in fact meant to be implemented with the active participation of all users (e.g. Swajaldhara). Hence, an immense focus has to be exerted to make public participation work effectively.

C. GENDER AND CASTE DISCRIMINATION

Gender and caste are two important factors to be given adequate attention in the law and policy framework related to water and sanitation. Women and lower caste people are quite often neglected sections. While there are plethora of studies arguing that women can play crucial and effective role in water resource management and development, they are mostly no where in the picture of framing and implementation of various policies and schemes.

The emerging legal framework also by implication excludes women, for instance, the participatory irrigation management laws allows only land owners or occupiers to become members of water users’ associations (WUAs). Given the fact that land ownership, in majority of cases, is in the name of male members of the family, women cannot become a member of WUAs. Consequently, women are excluded from the key decision making process.

Caste is also a crucial determining factor in this context because the link between caste and land ownership is still prevalent. This means, lower caste people such as dalits still remain by and large as landless people and therefore by implication the ongoing law and policy reforms excludes lower caste people also.

Caste is also a factor determining access to drinking water. Even though caste discrimination has been prohibited through law, it is still de facto prevalent in rural areas. Lower caste people usually has to wait till the higher caste people finishes fetching water and they also have to face some times abusive language and degrading treatment.

Hence, more affirmative actions are needed from the side of the government to eliminate these antique inhuman practices. Legal framework can play crucial role in this regard by de-linking the connection between access to water and land rights. Civil society organizations can also contribute significantly by disseminating the idea of human right to water so that access to water shall not be denied to any one on the basis of caste, gender or economic capacity.

5. FIELD TRIP



Figure 2. Discussion between participants and villagers regarding implementation of the Swajal project

A field trip was also conducted for the participants to the villages where Swajal project was implemented and check dams were established. The exercise was conducted to provide an insight to the participants about the implementation of the project. Through the personal communication with villagers, it was discovered that the situation with regard to drinking water has improved but still the situation has to improve a lot to achieve the target of adequate and safe water to all.

The Swajal project and related initiatives were taken in the late 1990s. This eventually led to the formulation of the Swajaldhara Guidelines which extended during the 10th plan the key ingredients of the Swajal project to the whole country.



Check dams are a type of structure, which dams up a small river or nallah in order to break the flow of water during the monsoons, and allows it to seep into the soil.

Figure 3. Discussion with villagers at a check dam site in Village Sarhat, District Chitrakoot. The check dam was established by the locals with the assistance of civil society Vanangana, District Chitrakoot

In Village *Sarhat*, Chitrakoot district, the local community has constructed a check dam with assistance from Vanangana. Since the establishment of this check dam the ground water table has increased considerably. The irrigation facility has improved due to which the place which was termed barren land now produces 12 quintal of wheat per season (*as per personal Communication*). The local administration has also taken some initiatives and is in the process of establishing few more check dams in the area.

6. CONCLUSION

Bundelkhand region including District Banda and Chitrakoot is primarily a fragile ecosystem. Earlier, forests and numerous tanks and ponds recharged the water and sustained sufficient groundwater and surface water in the leaner period. However, the rampant deforestation and negligence towards maintenance of ponds and water tanks adversely affected the water availability in the area. The Uttar Pradesh State Government through the World Bank funded Uttar Pradesh Water Sector Restructuring Project has undertaken several initiatives in water sector reform in the past decade. Though the situation has been improved comparatively, it needs to be improved a lot.

Water availability in the region was one of the most prominent issues raised by the participants. But the most worrisome aspect emerged from the workshop was the ignorance of the people of District Chitrakoot about the changing dynamics of water laws in India which may affect their life and livelihood significantly.

Another major issue transpired was gender and caste discrimination. Such kind of discrimination has always been a serious challenge for the society and blatant violation of human rights and the principle of equity.

Key issues emerged for further advocacy are:

- To generate mass awareness regarding fundamental human rights to water as guaranteed by the Constitution of India and affirmed by the Supreme Court of India and various high courts.
- Community Participation in the decision making and implementation process.
- Community mobilization and sensitization towards water rights and laws related to it.
- Adequate consideration to be given to the local context.