

Multi Stake holder Consultation for

Engaging with
Ground Water Legislation
in the Eastern Zonal States

Venue: Hotel Presidency

Date: 29th June, 2012



Organised by

East Zone Water Partnership

&

Odisha Water Forum

Supported by

India Water Partnership

Multi Stake holder Consultation on Ground Water Regulation
and Management Bill, 2011

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In the context of climate change and enhanced water demand from all the sectors ground water legislation has assumed paramount importance. But the recent bill by the government of Odisha falls short of the sense of urgency and policy acumen that it should have in the proposed Ground Water Bill 2011. In this backdrop a Multistakeholder Consultation on Ground Water Regulation and Management was held in Bhubaneswar. This consultation was organized by Eastern Zonal Partnership and Odisha Water Forum on 29th July 2012 at Hotel Presidency, Bhubaneswar. This initiative was supported by India Water Partnership, New Delhi.

The workshop was presided by Dr. Sisir Behera, Deputy Director, Department of Water Resources and also a key member of Odisha Water Forum and Mr. Kailash Dash, Executive Director of RCDC was the Chief Guest. The meeting started with a welcome address by Tapan Padhi, Convenor of Eastern Zonal Water Partnership, with a concise discussion on the state of ground water management in Odisha and the context in which Odisha Ground Water Bill, 2011



is about to be promulgated. With the ever increasing demand for water and the ensuing climatic uncertainties ground water has assumed more prominence than ever. Ground water is key to water security of a region. There has been efforts by government of India to facilitate the states for ground water legislation since 1970s. Water, and hence ground water is a state subject as per the constitution of India. To facilitate this, model ground water bills have been developed and circulated by government of India in 1970, 1994, 1996 and 2005. Recently, Govt of India has come out with yet another Model bill to facilitate effective GW legislations in the states. This model bill takes into account many concerns and is a fairly balanced bill for effective and sustainable management of ground water. But, now there is a tendency on the part of the State governments to come out with soft bills to leverage space to accommodate the demand from the industries and the corporate. For example, the State of Odisha has made some hasty attempts to pass a GW Bill based on old model bills that does not address the legal dimensions. As per the prevailing law, ground water belongs to land owners leaving little legal space for regulation by the state. The present efforts by the state government do not address the issue of equity (as GW is attached to land rights, landless people do not have a mechanism to access ground water), sustainability and water security. With the limited understanding of the citizenry and the civil society organizations regarding ground water there has not been much public discourse on ground water, ground water legislations that the states are trying to come out with and the implications of such legislations.

Tapan emphasized on the need of this consultation on ground water regulation and management with a broad objective to have a consultation with the various stakeholders on ground water, the recent initiatives by the state government for the regulation and management of ground water and policy advocacy on this matter. This was also followed by a little introductory session of all participants.

In his note Sri Tapan Padhi focused on Odisha's ground water and dependency on water as most of all aspects of social, economical and political development depends on the availability of adequate water supply. Apart from that demand of water is far exceeding the supply and the trend in continuing. This implies a growing deficit. One of the main options to control this deficit is by reducing water allocated for agriculture. He also focused on how the tariff of ground water came into limelight and the effort of the state to kind of legitimize ground water use by the industries and the corporate. Conflict on surface water in Odisha due to industrialization has in a way forced the State to shift focus to ground water as ground water endowment and its extractions is not visible to the general population to crystallize dissent and lead to public outcry. Planning Commission's approach for enhancement of ground water draft has accelerated this process.



The consultation was followed by two major presentations by Bikas Pati and Bimal Prasad Pandia on 'Odisha ground Water Scenario' and 'Odisha Ground Water Bill, 2011' respectively.

Mr Bikash Pati, Program Officer, Water Aid, Bhubaneswar made a presentation on "Challenges to ground water in Odisha as well its neighboring states". Bikas broadly described the different aspects of ground water scenario in Odisha and adjoining region with a focus on water availability, the alarming situation on the quality aspects, allocation of water in different level of development and the most importantly sustainability of water. Bikash emphasized that water scarcity is described as a major challenge facing our state. Most of districts in Odisha are facing water scarcity during dry season. Different primary and secondary sources data also depicts the impoverishment of ground water level. The ground water depreciation is a major challenge and the inadequate infrastructures of ground water for use in the domestic water sector and irrigation by the government is also very woeful. Industrialization is considered as a profitable business and for this purpose a huge quantity of ground water is being used with out optimal uses of surface water. Apart from different factors like traditional harvesting practices, technology used for agriculture purpose, traditional myths on ground water are also distressing the ground water aspect.

One more major threat on ground water is the chemical contamination. In Odisha 26 district out of 31 districts are mostly affected by Fluoride. Iron and Salinity is other biggest threat in Odisha. 90% of Odisha is affected by Iron contamination. Other chemical contaminations also require comprehensive testing. Due to decrease of ground water level these chemicals in water is emerging frequently.

In the following session Bimal Prasad Pandia briefed on Odisha Ground Water bill, 2011. In his presentation on Ground water regulation and management bill, he dwelt on different issues, scope and conflicts around ground water to build the context in which the legislation is being brought. He also described how the bill entirely fails to consider the basic issues on legal status of ground water and social and environmental dimension on water.

Government of India, since 1970, has been urging the States to legislate for the regulation and management of groundwater. At different times, model bills were circulated to facilitate the state legislations. On 29th July 2011 the latest version of model bill has been circulated. This model bill addresses most of the concerns with regard to groundwater. But the Orissa Groundwater (Regulation, Development and Management) Bill, 2011 is based on the older versions of the model bills circulated and does not incorporate the elements in the July 2011 model bill. A comparative analysis on Odisha ground Water Bill, 2011 and Model Bill, 2011, narrated by him was as follows:

Sl No	Model Bill, 2011	Odisha Ground Water Regulation and Management Bill, 2011
1	Here community has been given authority and right over on the ground water. Here authority is given to lowest possible public authority including gram sabhas, gram Panchayats, block Panchayats, district Panchayats, municipal authorities and state govt. etc.	This bill proposes to form a ground water regularity authority to exercise control over the ground water and its uses. There is no right of the public. Authority can be challenged in the court of law any time by the land owner for the right on ground water especially in notified areas.
2	In the model bill emphasis is given on protection, conservation, management and regulation of ground water. Every person's access to ground water and equality and equity also describes.	In this bill nothing is mentioned for the conservation of water other than a cursory mention of rainwater harvesting.
3	In the model bill the extraction of ground water for domestics and agriculture purpose	This Bill exempts extraction of groundwater for the domestic and

	is permissible to the lowest local authority.	agricultural use in the notified areas may perform after taking permission from the Authority. But, agricultural purpose is described in a loose way that even could include the agribusiness, agrobased industries and commercial cultivation.
4	The agriculture use and the industrial uses on ground water are clearly mentioned in separate columns and differentiation on these two sectors is also clearly exempted.	The definition of agriculture in the bill could include industrial agriculture, commercial agriculture and the allied industries.
5	In the model bill access to landless on ground water is mentioned.	The bill again does not talk about the right of the landless on groundwater, role of the Gram Panchayats in the management of groundwater, equity and environmental concerns.
6	In the model bill segregation exists for all types of users	In this bill all users are in same profile whether big or small.

Other discussions and recommendations:

In the intense discussion that followed after these presentations the following areas of concerns were flagged.

- There is a big gap between the model bill and the recent Odisha's ground water bill. We need to integrate all the issues including the economic and commercial value of water and may suggest to Govt for rectifying the gap and follow the policy advocacy for this matter. The more importantly we have to raise the issues on ownership of ground water at the community level.
- The recent ground water bill violets some of component of the PESA act and forest right act with reference to the communities. We need to review this policy and assure a systematic and coordinated effort to consult with govt. and with the policy maker. Strong advocacy strategy needed to prepare the bill in favor of fundamental rights of the community.
- All the issues can be put forth to the media which may create a better impact. Media advocacy would be a strong point for us to advocate with the policy maker. We have to prepare the strong agenda before parliamentary session overtake the tabled bill.

- Due to non notified area, there is no way by which the industries can be refrained from the use of the ground water and can very well be beyond the purview of the regulation act. Apart from that, till now, no monitoring has been done with respect to industrial exploitation of ground water use. There is no data base on bore well as per users and area and we don't have any proper management approach for the ground water. In this situation the Ground Water authority could be rendered almost dysfunctional. We have to explore a strong data base on these issues. Strong advocacy and lobbying for effective regulation of ground water use by the industries as well as agriculture is needed.
- Other follow up activities like comprehensive study on Model bill and tabled bill, consultation on various ground water issues from the perspective of the community, industrial exploitation of water etc. also need to be performed. We need to form a strong group and network to advocate these issues and consult with government for the necessary amendment.

The participants expressed concern that the Odisha Ground Water Bill 2011 does not take into consideration the 73rd amendment and does not decentralize the authorities at appropriate levels. It also does not address the equity concern with respect to land entitlements. After thorough discussion on the various aspects of ground water the following decisions were taken

- A core group is formed to follow up the whole initiative.
- The core groups will prepare a detailed critique to present to the government officials who are responsible for the drafting of the bill.
- The groups will consult legal experts whether a state legislation severing the link between the land ownership and ground water can stand the legal scrutiny with respect to Easement Act which is a Union legislation. The support of India Water Partnership also will be sought in this regard as they are in a better position in this regard.
- The team will meet the legislators of the State Assemblies to influence the discussion in the Assembly.
- Possibilities will be explored to ensure that the team works on a long term basis on ground water is ensured.
- It was decided that Mr. Bimal Pandya of RCDC will coordinate the group. The other members of that group will be Mr. Bikash Pati, Sandip Pattnaik, Mr. Sisir Behera, Mr. Satya Sunder Barik and Tapan Padhi.

The meeting ended with a vote of thanks to the chair and all the participants.

List of Participants

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