



Confederation of Indian Industry
Since 1895



**Recommendations
on
National Water Policy
by
CII National Committee on Water**

February 2011



1. INTRODUCTION

Shortage of Water has started to become a burning issue in several parts of India. We are already witnessing riots in several towns and villages in India, even those which are not known to be in arid regions. In many areas which are seen to be water deficit today, the per capita availability of water is not inadequate. Leaving aside the chronically dry regions of India, the reasons for water shortage in the country are attributable more to poor management and reflect the lack of adequate attention paid to governance issues in water sector rather than to actual shortage of water. CII has analysed the principal reasons for the Water sector in India becoming a “Burning platform” that it is today and underscores the need for a unified, holistic and escalated addressal of the policy issues governing the Water Sector in India.

There is no shortage of laws, policies, and guidelines that aim to govern the Water sector in India. Water is a state subject under the Indian Constitution, and various State governments have enacted several laws and rules for the sector. Over the past ten years, we have also witnessed a lot of activity at the level of Central, State and City/District governments to improve the availability and services in the Water sector. Yet the situation in the water sector is deteriorating when evaluated along many attributes and in most places. CII has sought to understand the policies and guidelines that govern the Water sector in India, and through this paper tried to provide inputs to the Government on aspects of various policies with a view to improving the availability and management of water resources in the country.

CII has identified the core issues that need to be addressed through appropriate policy interventions to transform the Water sector into a sustainable equilibrium from an environmental and financial standpoint. The recommendations can be classified under three broad heads as follows:

1. **Policy clarifications:** This covers several areas of policy for water sector that are hitherto inadequately addressed or ambiguously covered by existing policy(ies) for Water. The intent of CII’s recommendations here has been to make policy for water more coherent and unified.
2. **Institutional framework:** This refers to the need to strengthen the institutional framework in the Water sector of the country to implement the policies. CII believes that the prevailing institutional framework for Water sector is in need for building capacity in many areas to protect the legitimate rights of various stakeholders such as the asset owners, Government, consumers, service providers, financiers and communities, as also spell out their respective obligations to enhance the sustainability of the Water sector. There has been a relative burst of activity in the country at various levels to implement various reforms in the Water sector, but due to inadequate and inconsistent institutional capacity, the progress has been inadequate. CII’s recommendations here are built on ushering in an appropriate environment for improving efficiencies, transparency and balanced contribution from all stakeholders in the sector.
3. **Enhancing accountability:** A big reason for the shortcomings of the Water sector in India can be attributed to the relatively poor accountability of various entities involved in making available water to various users. Even where sufficient policies and guidelines have been spelt out,

implementation on the ground remains tardy and in many cases grossly inadequate. CII has recommended specific policy changes that could be made to address these lacunae.

Our recommendations cover ten policy themes for transforming the Water sector in India as summarised in the following table:

Underlying Policy Themes for Water Sector Transformation

FROM		TO
1. Multiple Acts; Diffused Policy	→	1. Over-arching Water Legislation
2. Resource constrained planning	→	2. Aspirational target-led planning
3. Centralised; State decides	→	3. Decentralised; Community decides
4. Supply led Asset Creation focus;	→	4. Demand led Service Delivery focus;
5. Access targets	→	5. Access + Quality of access targets
6. Equal Tariffs / Inequitable Access	→	6. Differential tariffs / Equitable Access
7. Weak Public Institutions; Privatization as a coping alternative	→	7. Strong Public Institutions; PPPs as a strategy for efficiency gains
8. Ground water is a private source	→	8. Ground water is a public source
9. Passive efforts in Conservation	→	9. Targeted Conservation strategy
10. Vulnerable sourcing - precipitation dependent	→	10. Multiple 'taps' – rains, rivers, desalination, wastewater re-use

2. SUMMARY OF RECOMMENDATIONS

A ten – point agenda

1. **Enact an over-arching Water Act to signal water sector as an important policy priority.** This will enable (a) greater clarity on water rights, (b) encouraging water efficiency, (c) regulating and conserving water resources – both ground water and surface water, (d) better participation of users and (e) effective dispute resolution.
2. **Implement the recommendations of National Water Policy (2002) and roadmap developed by the National Water Mission on priority.** Define timelines for desired outcomes and accountability for action points outlined, create institutional capacity and ring-fenced financing to drive these actions, and report progress on the work plan and actions bi-annually.
3. **Clarify legal position and rights over groundwater.** Incentivise all states to implement Model Groundwater Regulation Bill amended in 2005. Enforce provisions of the Act through greater involvement and incentivisation of Local Governments and communities. Regulate groundwater extraction for industrial use through increased charges / cess for groundwater extraction and by providing alternative and reliable supply to dis-incentivise groundwater over-exploitation
4. **Create guidelines and Toolkits for States to develop / implement specific water policies and set targets for equitable access and water conservation.** There is a need for backing the intent outlined in the National Water Policy 2002 with tangible support to states in preparation of state level policies. This is because different states have varying degrees of institutional capacity to implement the various policies, and left to themselves, there is unequal and generally inadequate progress amongst various states. The tool-kit should enable implementation of objectives of the state policy that promote water security, enable equitable access, encourage conservation and incentivise re-use. As part of the State Policy, states should set, monitor and achieve specific targets relating to access, sustainability and conservation.
5. **Set time-lines and milestones for implementation of 74th Constitutional Amendment Act so that all states move ahead with actual devolution of powers to ULBs.** The Government of India should provide greater thrust towards the ongoing efforts to provide for greater financial and operational autonomy for Local Governments, including creation of mechanisms for monitoring, reporting and disseminating state wise performance on implementation of the 74th CAA on an annual basis. While the initial steps in this direction have been taken, it is important to accord greater priority to achieving outcomes in this aspect.

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6. **Incentivise state governments to migrate water utilities towards greater financial sustainability.** Link funding from Central / State Government schemes to reforms in local governments. Some examples a) Incorporation of User Charges fixation and revision principles in Model Municipal Law and amendment of State-level legislation, b) Mandating provision of life-line supply at affordable levels (to minimise legitimate opposition from genuinely poor strata), c) Evolving institutional structures/mechanisms to separate service provision and regulation, d) Setting time-bound, universally acceptable and unambiguous targets for improving Access, Service levels and Financial sustainability of water and sanitation services, e) Tracking and disseminating information on Cost of service provision and level of subsidies at the local tier and f) Encouraging adoption of household area-based differential pricing initially and a graduated migration to metered tariffs within a defined timeframe.
 7. **Set benchmark norms and disclosure standards pertaining to water consumption and discharge covering all consumer segments namely, Agriculture, Industry and Domestic.** Evolve and disseminate reporting standards at the national level to aid cross state / city comparison. Set state level benchmarks for a) **Access to pressurised piped water supply** (say - All Class I towns to achieve 90% pressurised piped water supply access by 2020), b) **Treatment and Recycling** – (say, mandating 100% waste water secondary treatment, 50% re-use in apartments and commercial complexes for low-end uses such as flushing/ gardening/ car wash, and 50% re-use by industry with water intensive industries achieving zero discharge by 2020)
 8. **Implement actions to incentivise Water conservation** including a) creation of a Bureau of Water Efficiency to review interventions for reducing water intensity in agriculture, industry and domestic segments, b) Setting time bound targets for waste-water treatment and re-use, c) Establishing a national program to create / restore water bodies in urban areas d) Making rainwater harvesting a mandatory and a part of the building code and town planning legislation countrywide, and e) Instituting a system of water credits.
 9. **Encourage and implement Public Private Partnerships in urban water supply systems.** Aid Water utilities to potentially leapfrog in service delivery by leveraging private sector capacity with greater focus on efficiency gains in service delivery initially, where possible, rather than on bringing in private investment.
 10. **Initiate steps to enhance knowledge, capability and skills pertaining to the water industry in industry, academia and government. Some specific examples** a) setting up zonal level Water Resources and Management Institutes on the lines of IISc / IITs to create and nurture talent and b) supporting creation of licensed training and skilling programs to address the skill gaps in the sector.
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3. RECOMMENDATIONS

3.1. Create an over-arching Legal Framework for water sector – *Enact a Water Legislation*

The Government of India should enact an over-arching Water Act to signal water sector as an important policy priority.

At present, different parts of the water value chain and service delivery are addressed by different Acts such as Inter-state Water Disputes Act, Pollution Control regulations etc., resulting in a diffused policy and legal framework for Water sector.

In this context, a comprehensive over-arching legal framework at the national level could signal greater recognition and importance accorded to the Water sector. This is consistent with similar initiative in the Electricity sector that has contributed in no small measure to greater clarity on policy objectives, institutional frameworks and targets for access and service delivery. Similar legislation for water also exists in other countries. There is national level legislation on similar lines in the United Kingdom and South Africa.

CII believes that an over-arching legislation could pave the way for a) greater clarity on water rights, b) encouraging water efficiency in industry, agriculture and domestic consumption, c) regulation and protection of water resources – both ground water and surface water and d) Better community participation and e) effective dispute resolution.

3.2. Water Policy 2002 and Water Mission – *Shift to implementation mode*

Define accountability for action points outlined in the National Water Policy 2002 and the roadmap outlined by the National Water Mission more recently. Create institutional capacity and ring-fenced financing to drive these actions, monitor progress at the highest level including the Prime Minister’s Office and disseminate progress on actions every six months.

The **National Water Policy** framed in 2002 provides a fairly comprehensive policy framework for addressing the sector’s needs. Among other things, the Water Policy

1. Set a time frame of two years to frame **State-specific water policies**
2. Mooted creation of **River Basin organisations** and amendment of Inter-State Water Disputes Act of 1956
3. Articulated **water allocation priorities** with drinking water getting priority for first charge on any available water
4. Emphasized importance of **financial sustainability**. “Water charges for various uses should be fixed in such a way that they cover at least the operation and maintenance charges of providing the service initially and a part of the capital costs subsequently. These rates should be linked directly to the quality of service provided. The subsidy on water rates to the disadvantaged and poorer sections of the society should be well targeted and transparent”
5. Stressed need to **regulate ground water, optimise irrigation productivity and encourage private sector participation** in planning, development and management of water resources projects for diverse uses, wherever feasible.

More recently, the National Water Mission set up under the National Action Plan on Climate Change has prepared a comprehensive Mission Document outlining actions to be taken and a roadmap for implementation. The main objective of the National Water Mission is “conservation of water, minimizing wastage and ensuring its more equitable distribution both across and within States through integrated water resources development and management”.

Often, Implementation of Policy often suffers due to lack of adequate capacity and ring-fenced availability of resources, which needs to be addressed squarely. While there is scope for fine-tuning the prescriptions outlined in both the Water Policy 2002 and the Mission Document of the National Water Mission, **it is imperative that both these initiatives are backed by appropriate institutional frameworks and adequate monitoring / supervision at the highest levels including the Prime Minister’s Office (PMO).**

3.3. Ground water management and regulation

<p>Provide technical and financial assistance to all states to encourage adoption of Model Groundwater Regulation Bill amended in 2005 and enforce provisions of the Act through greater involvement / incentivisation of Local Governments and communities. Limit ground water extraction for industrial use and increase the charges / cess for ground water extraction to dis-incentivise the same.</p>

The issue of groundwater management has received a lot of attention in the Mission document of the National Water Mission, which points to the urgent need for appropriate measures in groundwater resources that are declining due to overuse. The document points out that over 15% of the assessment blocks, groundwater has been over-exploited and another 14% of the blocks are in critical or semi-critical state. Apart from this several studies through empirical as well as anecdotal evidence have indicated the alarming position of groundwater over-exploitation.

Also, the legal position on whether groundwater is a resource meant for public use continues to be fuzzy. Indian Laws do not explicitly define groundwater ownership. While some states have attempted to do this, this has been challenged in the Courts in the past. Groundwater rights in the past have been determined on indirect grounds through provisions of other legislation such, as the Indian Easement Act of 1882, interpretations of the Transfer of Property Act of 1882, the Land Acquisition Act of 1894 and Directive Principles of the Constitution.

Countries like Israel have explicitly declared water including Groundwater as a public asset. The first principle of Israel's water law of 1959 is that water sources are the property of the public; there is no private ownership of water resources. The absence of private water ownership of groundwater is explicitly clarified in Section 4 of the country's water law, which states: "A person's right in any land does not confer upon him a right in a water resource situated therein..."

While legislating on groundwater rights is an imperative, it is critical that this is backed by greater involvement and incentivisation of Local Governments when it comes to implementation. Several states have passed legislation on Groundwater regulation but implementation continues to be tardy due to lack of oversight and implementation capacity at the local levels. Further, there is a clear case for limiting extraction of groundwater for industrial use and in such cases it must be made mandatory for industry to implement 100% recycling / re-use and zero discharge technologies.

3.4. Translating Policy Vision at State level

Create guidelines and Toolkits for States to develop / implement specific water policies and set targets for equitable access and water conservation. There is a need for backing the intent outlined in the National Water Policy 2002 to support states in preparation of state level policies. Objectives of the state policy should be to promote water security, equitable access, conservation and re-use. As part of the State Policy, states should set, monitor and achieve specific targets relating to access, sustainability and conservation.

It is critical that there are institutional and incentive mechanisms built to ensure that implementation of the National Policy is coordinated with State Governments to drive the sector transformation.

In line with the recommendations of the National Water Policy, a number of states have formulated State Level Water Policies. However, these have been largely stand-alone efforts without adequate guidelines on what should constitute and be covered in a state policy, making any meaningful comparison and cross-learnings difficult.

We recommend that as in the case of the JNNURM where templates and toolkits were developed for preparation of City Development Plans and Detailed Project Reports, it may be useful for Government of India to develop standards and guidelines for development of State level policies. The State level Water Policy should at the minimum include measures to promote water security, equitable access, conservation and re-use and set, monitor and meet targets relating to access, sustainability and conservation.

3.5. Role of Local Government and Community Participation

Set minimum standards and guide states in the implementation of 74th Constitutional Amendment Act in a time-bound manner.
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The 74th Constitutional Amendment Act recognises the role of Local Governments both in rural and urban areas in governance and service delivery. Water Supply is one of the functions listed under the 12th Schedule functions that need to be transferred to Local Governments and therefore implementation of the 74th Constitutional Amendment in letter and spirit holds tremendous importance for the Water sector.

Though the 74th CAA outlines the principles and timeframe for implementation, the modalities of implementation have been left to individual State Governments, which has led to a great deal of variation in implementation. In this regard, the recent efforts by the Government of India under programs like the JNNURM to accelerate implementation of urban development projects is a welcome step and needs further focus. There are three areas where there is scope for some immediate interventions.

- a) Provide teeth to the State Finance Commissions (SFCs) by setting guidelines and for defining their agenda and link at least a part of Central Devolution to effective setting up of SFCs and implementation of its recommendations in a time-bound manner.
- b) Similarly, push State Governments to review and enact / amend their Municipal Law on the lines of the Model Municipal Law being developed by the Government of India.
- c) Oversee and monitor the progress achieved by State Governments with respect to transfer of 12th schedule functions to Local Governments in a time-bound manner.

3.6. Financial Sustainability

Implement actions to aid financial sustainability of water utilities by linking funding from Central / State Government schemes to reforms

The Water Policy 2002 articulates the principle for moving towards sustainability by indicating that operations and maintenance costs should be recovered in full. This principle has also been carried forward in the JnNURM program which had made cost recovery as one of the mandated reform measures. While this is a good starting point, there is a need to move down further down this direction to address financial sustainability. Our recommendations in this regard are listed below:

1. Incorporate User Charges fixation and revision principles in Model Municipal Law and amendment of State-level legislation. This is being attempted in a few states through Tariff policy and pricing manuals. There is a need to make this standard across all states
2. Mandate provision of life-line supply at affordable levels of tariff and define service level obligations. Unlike a tax, user charges should be made to have a direct link with the level of service and cost of service provision in order to avoid resistance.
3. Evolving mechanisms to separate service provision and regulation, as required by the previous sentence above. Set time-bound targets for Access, Service levels and Financial sustainability of water and sanitation services,
4. Make it mandatory for state governments to track and disseminate information on Cost of service provision and level of subsidies at the local tier
5. Encourage ULBs to adopt household area-based differential pricing initially and a shift to metered tariffs within a finite timeframe.

3.7. Benchmarking and Target - setting

Set benchmark norms and disclosure standards pertaining to water consumption and discharge covering all segments namely; agriculture, industry and domestic. Evolve and disseminate reporting standards at the national level to aid cross state / city comparison.

In the past, we have been guilty of allowing resource and capacity constraints limit our targets for provision of safe and reliable access to water supply and sanitation. Recent initiatives under JNNURM and programs such as the Bharat Nirman have led to relative increases in the outlays for the sector. However, there needs to be a sharper definition of norms from just ‘access’ related goals to ‘access + quality’ related goals. It is imperative that the Government of India as a follow up to the Water Policy outlines a set of aspirational targets that are tangible and measurable to provide greater policy depth and sharper implementation focus. In this context, we outline below a set of areas and illustrative policy targets that need to be firmed up by the National Water Mission.

1. Define “Access” (including Quality of Access) unambiguously – Some illustrative examples:

- 100% coverage of safe and reliable access to piped water supply across all habitations – rural and urban across the country by 2020
- Continuous pressurised 24x7 piped water supply in all Class I cities and towns by 2020 and all urban settlements by 2030.

2. Water Treatment and Recycling

- Mandate 100 % coverage of secondary sewage treatment in all Class I and II cities and towns by 2020.
- Mandate at least 50% re-use in apartments and commercial complexes for low-end uses viz., flushing, gardening, car wash in all Class I and II cities and towns by 2020.
- Mandate at least 50 % recycling and re-use by industry and zero discharge by all water – intensive / polluting industries by 2020.

3. Reducing Water intensity in agriculture

- Increase penetration of drip irrigation and other technologies for reduction of water intensity of agriculture to 30% by 2020 by incentivising migration. Incentives could be capital subsidy

3.8. Water Conservation

Implement actions to promote and incentivise Water conservation.

A list of recommendations in addition to those already covered under benchmarking and target setting outlined below:

1. Create a Bureau of Water Efficiency¹ to review interventions for reducing water intensity in agriculture, industry and domestic segments,
2. Set time bound targets for waste-water treatment and re-use outlined under point 2 of section 2.6
3. Establishing a national program to create / restore water bodies in urban areas
4. Make rainwater harvesting a mandatory and a part of the building code and town planning legislation all over India
5. Institute a system of Water Credits on the lines of Carbon Credits

¹ On the lines of the existing Bureau of Energy Efficiency

3.9. Public Private Partnerships

Encourage and implement Public Private Partnerships in urban water supply systems.

There has been momentum building for Public Private Partnerships in the urban water supply space over the last couple of years with a number of projects being awarded and more in the pipeline. International experience in developing countries over the last decade seem to suggest that Affirmage Contracts and Management Contracts with the objective of improving access and facilitating efficiency gains have been far more sustainable rather than investment led Concessions given to private operators. This is relevant in the Indian context given the low levels of tariff and the steep levels of increase in tariffs that accompany an investment led concession. Therefore, it makes sense in the Indian context to encourage PPPs with focus on service delivery and efficiency gains rather than insisting on investment by the private sector. One could gradually move to substantially investment-led concessions in the long term as the gap between full costs and recovery is bridged.

3.10. Capacity and Skill up gradation

Initiate steps to enhance knowledge, capability and skills pertaining to the water industry in industry, academia and government

Given the current context and capacity issues, water is a sector where there is a need for a significant thrust to enhance knowledge sharing and capability / skill building.

In this regard, we recommend the following:

1. Set up zonal level Water Resources and Management Institutes on the lines of IISc / IITs to create and nurture talent.
2. Supporting creation of licensed training and skilling programs to address the skill gaps in the sector.
3. Set apart some funds at Central and State Government (estimated aggregate of Rs 100 crore) for training government employees in the water sector at various levels with respect to infrastructure creation and PPP concepts.

This is a ‘quick win’ area for collaborative efforts between CII and Government of India. CII has been taking a number of initiatives through its Water Committee and the Green Business Centre in Hyderabad to promote water conservation in Industrial use and in conducting a wide range of training programs.

4. CONCLUDING REMARKS

It is ironical that the availability of Water, which has always been considered the ‘ultimate replenishable asset’ is under threat. The CII recognises the need to act decisively in the face of the growing concerns on India’s water security, even as the Economy marches ahead, creating more pressures. This effort by the CII’s effort is a result of the recognition that the time to act decisively is already here.

CII shares the vision of the Government of India towards an inclusive and prosperous society and believes that provision of equitable and reliable access to safe water is a critical requirement in this regard. CII is deeply committed to making a difference and is appreciative of the recent initiatives by the Government of India including the very timely National Water Mission and looks forward to collaborative efforts in enabling a strong policy framework and in steering equitable access, sustainable institutions and preserving overall water security of the Nation.

Appendix I
List of References

1. National Water Policy 2002.
2. Report of the National Water Mission set up under the National Action Plan for Climate Change
3. The Water (Prevention and Control of Pollution) Act, 1974, amended 1988
4. References to Water in Constitution of India – Article 246, Article 262, Entry 56 of List 1 of Seventh schedule, Entry 17 under List II of Seventh schedule
5. The Inter-states River Water Disputes Act
6. Model Bill to regulate and control the Development And Management Of Ground Water, 2005.

About CII

The Confederation of Indian Industry (CII) works to create and sustain an environment conducive to the growth of industry in India, partnering industry and government alike through advisory and consultative processes.

CII is a non-government, not-for-profit, industry led and industry managed organisation, playing a proactive role in India's development process. Founded over 115 years ago, it is India's premier business association, with a direct membership of over 8,100 organisations from the private as well as public sectors, including SMEs and MNCs, and an indirect membership of over 90,000 companies from around 400 national and regional sectoral associations.

About CII - Water Institute (CII-WI)

CCII-Water Institute has been set up in Jaipur, Rajasthan, with a MoU signed between Government of Rajasthan and CII during Water Summit 2006 at Jaipur. The Core Purpose of the Water Institute is to address the critical aspects of Water at National level and State level.

In view of the looming water crisis the CII-WI has developed a plan to provide a comprehensive solution towards efficient water management. A few critical areas which are of long term business interests to CII-WI will be Industrial Water treatment, Municipal Water supply & Waste water treatment, Water shed development, Rain water Harvesting, Community based drinking water projects, Drip irrigation projects, Urban and Rural Sanitation.

CII-WI has been rendering water management services to various end users in industries and to the community as a whole. The services include Preliminary water survey, detailed water audits, training programs, developing Public Private Community partnership projects (PPCP) in water resource management under the auspices of India Business Alliance on Water (IBAW) and organizing events such as National Awards for Excellence in Water Management in industries, Water Investor's meet and the Water summit.

About the CII National Committee on Water (WaterCom)

The Confederation of Indian Industry (CII) is a non-government, non-for-profit, industry led and industry managed organization, playing a proactive role in India's development process.

"India@75: The Emerging Agenda", is a proactive initiative of CII to facilitate the acceleration in India's transformation into an economically vital, technologically innovative, socially and ethically vibrant global leader by year 2022.

In line with this national agenda, the CII National Committee on Water (WaterCom) catalyzes the move towards 'national water adequacy'. The initiatives of the committee include sharing best practices, education & awareness, policy facilitation and recognizing & rewarding outstanding performances



Confederation of Indian Industry
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