## Chapter Five

## A Critical Analysis of the National Water Policies of 1987, 2002 and 2012 in the Context of Right to Water

### Introduction

The aim of the present study is to present a critical analysis on the idea of Right to Water in the context of the Union Water Policies of India. The enquiries are mainly three: firstly, to explore the concept of Right to Water; secondly, to study the status of Right to Water in the Indian context and lastly, to analyze India's national water policies, drafted respectively in 1987, 2002 and 2012 in the context of the idea of Right to Water. Chapters Three and Four of the present study have addressed the first two enquiries. Chapter Three explains the concept of Right to Water while Chapter Four has explored the Indian understanding on the same. The present chapter turns to analyze India's national water policies (hereafter NWP) of 1987, 2002 and 2012 in the context of Right to Water and enquires if the union water policies of India embrace the components of Right to Water, details of which are drawn in Chapter Three of the present study.

The enquiries and discussions of the present chapter are based on an argument that emphasizes that a national water policy is a legitimate document, which while addressing questions like who gets water, when and how, elaborates on the authoritative allocation of water resources i.e. distribution patterns and proposes management strategies for the same[cccliv]. Accordingly, the strategies of distribution and management as decisive aspects of a policy document, respond to the multiple queries as: what is the purpose (s) of the policy, who is/are the beneficiary(ies) of the policy, who is/are accountable to fulfill the objectives of the policy and how the same will be managed? Clearly, a policy speaks through distribution and management strategies and hence to explore if the content of a policy fulfills a specific condition, it is important to adequately read these two strategies.

To present a critical analysis of India's national water policies in context of the idea of Right to Water, this Chapter studies the distribution and management strategies of the national water policies, drafted respectively in 1987, 2002 and 2012[cccv]. The Chapter discusses if the patterns of distribution and strategies of management, referred in the three policies, fulfil the criteria of Right to Water described in Chapter Three of the present study[cccvi]. It should be noted that since the purpose of this study is to present a critical analysis of Right to Water in the context of the union water policies of India, the chapter will not analyse the entire policy document. The chapter will analyse only those sections of the policies that implicitly or explicitly focus on distribution and management of water resources and investigate if the same satisfies and preserves the idea of Right to Water. To draw upon the analysis, this chapter uses the hermeneutic approach and critical policy analysis as a research tool. While using the hermeneutic approach as a tool, the chapter tabulates the content of the three policies and presents a commentary note on the same. Again, since the purpose of this study is to analyse India's national water policies in the context of the idea of Right to Water only, the tabulation does not represent the entire content of the three policies. The Tables comprise only those sections (or part of the sections) of the policies that implicitly or explicitly draw upon the distribution and management strategies. The researcher has taken freedom to choose the sections, as the three policies, while considering water as a basic human need and fundamental to life, livelihood, food security and sustainable development (NWP of 1987, 2002 and 2012; 1.1), do not endorse water as a right. Moreover, in the strategies of water policies, the ideas for distribution and management of water resources are not clearly defined. The chapter in order to make the analysis more relevant and precise, presents a textual analysis on selective sections and elaborates the findings with reference to the same.

Accordingly, this Chapter is divided into five sections. The first section draws on the significance of analyzing the distributive and management strategies of India's three national water policies, in the context of Right to Water. The second section introduces the readers to a framework that has been used to analyse the union water policies in the context of Right to Water. The third

and fourth sections are divided into subsections, which respectively present analysis on distributive and management strategies referred in the national water policies. The fifth section provides a discussion on entitlement of Right to Water through union water policies and is followed by a summary of the chapter.

## 5.1. Significance of Analyzing Distributive and Management Strategies in the Context of the Idea of Right to Water

A study of distribution and management strategies is an obvious part of water policy analysis as their study provides the goals of the policies. The researcher, while arguing for a study of the distribution and management strategies in the present research, insists that the importance of their study lies in the aim of the study itself, which seeks to explore if India's national water policies fulfill the criteria of Right to Water. The researcher believes that a focus on these two strategies will reveal important facts. For instance, their critical analysis will denote who is/are entitled to have and use water, for what purpose (s) water use is allowed, by whom and how the same is being fulfilled and managed. In short, an analysis of distributive and management strategies will help to measure the degree of (non) realization and compliance with right to water in the water policies.

## 5.2. Framework to Analyse Distributive and Management Strategies in the Context of the idea of Right to Water

Chapter Three of the present study describes that to ensure water as a right, Comment 15 and the documents released by the World Health Organization have offered major policy directives[cccvii]. However, since the directives are argued in the context of Human Right to Water and benchmarks are not offered in a single manual, the researcher, to present a critical analysis of India's national water policies in context of Right to Water, has preferred to develop an independent framework. The researcher calls it the 'Water Policy Analysis Guiding Framework' (hereafter, 'the Framework'). The researcher believes that it is essential to develop a framework for water policy analysis which fits into the idea of Right to Water. This is because as per the idea of

Right to Water, the meaning of right to water is specific and its arguments and principles are significantly different from Water Right and Human Right to Water, as Chapter Three of the present study has described. It is important to note that in the Framework, the benchmarks and principles, evolved as soft and hard laws at international regional and national levels, are reframed. However, while so doing the researcher has maintained the identified differences between the idea of Right to Water and Human Right to Water.

Keeping the difference in mind, the Framework introduces benchmarks to analyse India's national water policies in context of Right to Water and while so doing focuses on the four principles of Right to Water which fundamentally emphasise that an ideal water policy is supposed to ensure Water Freedom with Equality as argued in chapter three of the present study[cccviii]. The first principle of the Framework states that water is for all and must be available, accessible, acceptable and affordable to all. The second principle endorses that the entitlement of right to water specifies the scope of water uses, which offers a list of priorities for water uses. The third principle argues that the idea of Right to Water is a result of an ideal combination of rights and duties and the fourth principle stresses that the fulfillment of the right to water requires proper institutions and mechanisms[cccix]. The Framework, while exploring the ideal standards to analyze Water policies in context of Right to Water, insists that to attain an ideal water policy with reference to Right to Water, the first three principles are required to be indoctrinated in distributive strategies and the fourth should be indoctrinated in management strategies. The Framework, thus, comprises three elements i.e. the concept of Right to Water, core principles of the Framework used as benchmark/ indicators and distributive and management strategies of water policies that are the focus of this analysis. The Framework suggests that to analyze India's national water policies in context of the idea of Right to Water, the three should be studied in relation to each other as the following figure shows.

**Figure:5.1 The flow of the present analysis**

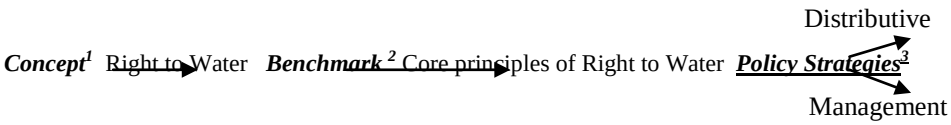


Figure 5.1 shows the initial understanding of the Framework and points to the flow of the study that has three steps. The Figure presents that for the present analysis, the concept of Right to Water is at the center of the discussion. Importantly, its core principles are used as indicators/benchmarks and are analysed with reference to distributive and management strategies offered in India's national water policies. Further details are explained in the following figure-

**Figure 5.2: Water Policy Analysis Guiding Framework in context of the idea of Right to Water**

## Idea: *Purpose of a Water Policy should ensure Water Freedom with Water Equality*

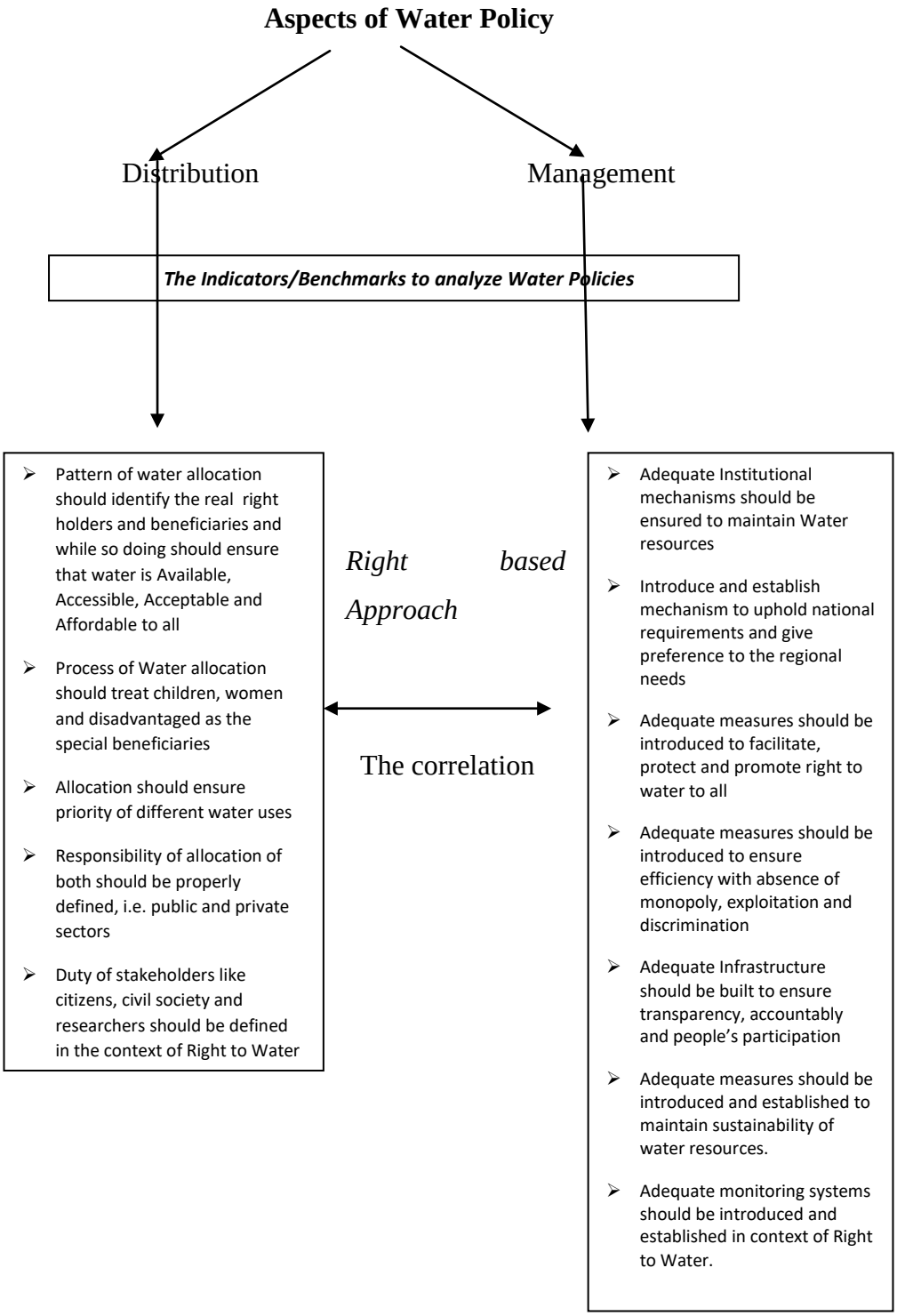

Figure 5.2 is an expansion of Figure 5.1, which offers a set of generic indicators/benchmarks that are being used to analyse India's national water policies in the context of Right to Water. The criteria introduced in the Framework provides that in the present chapter the distribution and management strategies are studied in reference to twelve contexts, that are the core principles of Right to Water. According to the Figure, 5.2 investigation on distributive strategy focuses on five standards of Right to Water. The study with reference to these standards explores if the idea of water for all is defined in favor of the identified real beneficiaries, with required clarity on duties of water users and water suppliers and if the use of water is properly prioritised. Similarly, in the chapter, the management aspect of India's national water policies is studied with reference to seven indicators/ benchmarks. The study explores if India's have proposed adequate mechanisms to maintain water resources to satisfy national and regional requirements and to facilitate protect, and promote right to water to all. The investigation also looks into whether efficiency in management has assured absence of discrimination and exploitation and created an infrastructure/mechanism to ensure transparency, accountability and people's participation. The Framework points that the study further examines if the policies have proposed adequate measures to maintain sustainability of water resources and have introduced monitoring systems to ensure right to water to all.

The Figure 5.2 shows that in the chapter, the standards concerning the distribution and management strategies are not studied in isolation but in relation with each other. The researcher here insists that adoption and implementation of both the sets of the principles classified under the distribution and management strategies are essential as without them the purpose of Right to Water shall not be fulfilled[cccx].

## 5.3. Status of Right to Water in the Union Water Policies: An Analysis of Distributive Strategies

Distributive strategies as the first aspect of water policies, focuses on two questions: to whom water is going to be given and by whom it is going to be

supplied. The benchmarks of the Framework, from this viewpoint emphasize that the distribution strategies of ideal water policies, while proposing the strategies to distribute water resources, should embrace the key values of Right to Water. The Framework underlines that a policy, to ensure water as a freedom with equality, should distribute water to all and while so doing should ensure children, women, disadvantaged and disabled as special beneficiaries. The Framework points that distribution of water should be based on the principle of priority of water uses and an ideal water policy should propose plans to maintain the order of priorities of the same. The Framework, while offering principles concerning to water distribution, emphasizes that distributive strategies should propose a comprehensive detail on duty bearers and should clarify the duties of the water users and water suppliers. Clearly in respect to distribution strategies, expectations from a water policy document are multiple and to explore the status of Right to Water in water policy documents, they are required to be studied in detail. The following section, for this purpose, discusses each benchmark as an expectation and principle of Right to Water and explores if distributive strategies offered in India's national water policies fulfil the expectations and integrates the elements of Right to Water.

### 5.3.1. Right Holders and Real Beneficiaries: An Analysis of the Major Principles

The researcher thinks that in the present study, the question about whom water should be given, concerns with identifying the right holders and the real beneficiaries of water allocation. In the Framework, such concerns are expressed as a principle that emphasises that the process of water supply should be non-biased and that its allocation should ensure the priority of water uses. Importantly, the condition of non-bias, i.e. non-discrimination is not absolute here, but it allows for positive discrimination. This infers that the process of water allocation should ensure water to all; however, while so doing it should give special preference to the needs of children and women and fulfill requirements of the disadvantaged sections and the disabled. The

principle of real beneficiaries, while insisting on priority of water uses, suggests that drinking water should be held as the first priority of water allocation. The following paragraphs with reference to this principle, explore if India's national water policies identify the real beneficiaries and uphold the value of priorities in water usage.

### 5.3.1.1: Water For/to All: Available, Accessible, Acceptable

The core principle of the idea of Right to water which insists on ensuring water for/to all, mainly upholds three values: availability, accessibility and acceptability of water resources. The first value focuses on availability of water resources and argues that water allocation should ensure sufficient and continuous availability of water to all, in all situations and importantly, within a manageable distance[cccxi]. The accessibility, as a second value of Right to Water holds wider interpretations and points to the physical, financial (affordability) and cultural accessibility of water resources, without discrimination. Acceptability as the third value of right to water insists for safe water and emphasises that the quality of water should be such that it can be easily accepted by the people. Clearly, the three values are at the center of the concept of Right to Water and realization of the three principles decides if a policy aims to entitle right to water to all. Since the purpose here is to explore the status of this principle in context of India's national water policies, the following paragraphs discuss if India's national water policies fulfill the idea of availability, accessibility and acceptability[cccxii].

**Table 5.1: Water For/to All: Available, Accessible and Acceptable**

| Component of Distribution | NWP of 1987 | NWP of 2002 | NWP of 2012 |
|---|---|---|---|
| | **3.1 The water resources available to the country should be brought within the category of utilizable resources to the maximum possible extent.…** | **1.6 ……. Complex issues of equity and social justice in regard to water distribution are required to be addressed.** | **1.3 (ii) Principle of equity and social justice must inform use and allocation of water.**<br><br>**1.3 (viii) Given the** |

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|---|---|---|---|
| **Water For All: Available, accessible, and acceptable** | **1.7 Another important aspect is water quality. Improvements in existing strategies and the innovation of new techniques resting on a strong science and technology base will be needed to eliminate the pollution of surface and ground water resources, to improve water quality and to step up the recycling and re- use of water. Science and technology and training have also important roles to play in water resources development in general**<br><br>**7.2 Exploitation of ground water resources should be so regulated as not to exceed the recharging possibilities, as also to ensure social equity. Ground water recharge projects should be developed and implemented for augmenting the available supplies. Adequate drinking water facilities should be provided to the entire population both in urban and in rural areas by 1991. Irrigation and multipurpose projects should invariably include a drinking water component, wherever there is no alternative source of drinking water. Drinking water needs of human beings and animals should be the first charge on any available water.**<br><br>**10.3 Water allocation in an irrigation system should be done with due regard to equity and social justice. Disparities in the availability of water between head-reach and tail-end farms and between** | **3.1 Water resources available to the country should be brought within the category of utilizable resources to the maximum possible extent.**<br><br>**8. Adequate safe drinking water facilities should be provided to the entire population both in urban and in rural areas. Irrigation and multipurpose projects should invariably include a drinking water component, wherever there is no alternative source of drinking water. Drinking water needs of human beings and animals should be the first charge on any available water**<br><br>**9.3 Water allocation in an irrigation system should be done with due regard to equity and social justice. Disparities in the availability of water between head-reach and tail-end farms and between large and small farms should be obviated by adoption of a rotational water distribution system and supply of water on a volumetric basis subject to certain ceilings and rational pricing.**<br><br>**11. Besides creating additional water resources facilities** | **limits on enhancing the availability of utilizable water resources and increased variability in supplies due to climate change, meeting the future needs will depend more on demand management, and hence, this needs to be given priority, especially through (a) evolving an agricultural system which economizes on water use and maximizes value from water, and (b) bringing in maximum efficiency in use of water and avoiding wastages**<br><br>**3.2 The Centre, the States and the local bodies (governance institutions) must ensure access to a minimum quantity of potable water for essential health and hygiene to all its citizens, available within easy reach of the household**<br><br>**4.5……. The acceptability criteria in regard to new water resources projects need to be re worked in view of the likely climate changes**<br><br>**5.5 Inter-basin transfers are not merely for increasing production but also for meeting basic human need and achieving equity and social justice…..**<br><br>**7.1 Pricing of water should ensure its** |

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| | **large and small farms should be obviated by adoption of a rotational water distribution system and supply of water on a volumetric basis subject to certain ceilings.**<br><br>**11. Water rates should be such as to convey the scarcity value of the resource to the users and to foster the motivation for economy in water use. They should be adequate to cover the annual maintenance and operation charges and a part of the fixed costs. Efforts should be made to reach this ideal over a period, while ensuring the assured and timely supplies of irrigation water. The water rates for surface water and ground water should be rationalized with due regard to the interests of small and marginal farmers** | **for various uses, adequate emphasis needs to be given to the physical and financial sustainability of existing facilities. There is, therefore, a need to ensure that the 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.**<br><br>**14.2 Effluents should be treated to acceptable levels and standards before discharging them into natural streams.** | **efficient use and reward conservation. Equitable access to water for all and its fair pricing, for drinking and other uses such as sanitation, agricultural and industrial……**<br><br>**7.2 In order to meet equity, efficiency and economic principles, the water charges should preferably / as a rule be determined on volumetric basis. Such charges should be reviewed periodically.**<br><br>**7.4 The principle of differential pricing may be retained for the pre-emptive uses of water for drinking and sanitation; and high priority allocation for ensuring food security and supporting livelihood for the poor. Available water, after meeting the above needs, should increasingly be subjected to allocation and pricing on economic principles so that water is not wasted in unnecessary uses and could be utilized more gainfully.**<br><br>**11.1 There is a need to remove the large disparity between stipulations for water supply in urban areas and in rural areas. Efforts should be made to provide improved water supply in rural** |

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|---|---|---|---|
| | | | **areas……** |

**Commentary on the Selected Sections of the Three Policies: An Analysis of the Table**

Table 5.1 demonstrates that the sections (or parts of the sections) referred in the three national water policies call to ensure water to all and addresses to the question of availability, accessibility and affordability. While referring to the issue of water allocation, the policies commonly emphasise upon adopting the principle of social equity and justice (NWP 1987; 7.2: NWP 2002; 1.6 and 9.3; NWP 2012; 1.3 (ii)).

Table 5.1 shows that the national water policy of 1987 while staking for water allocation, points to the quality (section, 1.7), availability (section, 7.2 and 10.3) and water pricing (section, 11). The policy, to ensure water availability, emphasises upon making water resources utilizable and towards this, calls for improving water quality by encouraging innovations and using new technology (1.7). The policy considers drinking water as an important component of the policy and insists upon ensuring equal allocation of drinking water to urban and rural population (7.2). To make this possible the policy suggests to integrate drinking water as an important ingredient of irrigation and project that have multiple purposes and to develop ground water recharge projects. The policy points to inequalities in water allocation and highlights them in the context of the availability of water between the head and tail end farms and between large and small farms (10.3). To address the prevailing inequalities, the policy suggests adopting rotational water distribution system and insists on volumetric based water supply (10.3). The policy gives special focus to the water needs of small and marginal farmers and advocates ensuring timely supplies to irrigation. To ensure financial accessibility for them, the policy suggests rationalizing water rates for surface and ground water and insists upon fixing water rates in context of scarcity.

Table 5.1 shows that the national water policy of 2002 has major sections which repeat the NWP of 1987. For instance, like NWP of 1987, the policy advocates for ensuring drinking water to the entire population and infers to

consider drinking water as an important component of all the major projects (8) and also stresses to remove disparities in the availability of water between tail end and small farms (9.3). To meet the water related requirements, the policy emphasizes on utilizing all the available resources (3.1). While referring to the financial sustainability of water resources, the policy insists upon price fixation for each water use and advocates that the purpose of water charges should be to cover the operational and maintenance charges (11). The policy instructs that the rates should be linked directly to the quality of services and there should be subsidy on water rates for the poorer and disadvantaged sections of the society (11). To control water pollution, the policy proposes to bring effluents to acceptable levels (14.2).

It appears from the Table 5.1 that in comparison to the NWP of 1987 and 2002, the NWP of 2012 is relatively clear, especially with respect to water availability. The policy repeats the requirement of social equity and justice in water allocation (1.3 (ii)) and insists upon ensuring access to a minimum quantity of potable water within easy reach of the household (3.2), which is a new addition. The policy stresses to remove disparities between urban and rural water supplies and suggests that special attention be given to the rural requirements (11.1). To meet the quality and quantity requirements of water users and to get maximum value of water use, the policy advocates to evolve a system effective to improve agricultural systems and suggests to rework on the water resource projects (4.5) and inter-basin transfers (5.5). The policy emphasizes to review water projects in the view of climate change and insists to ensure maximum efficiency in use of water by avoiding water wastage (1.3 (viii)). The policy, to meet the required principles of equity, economy and efficiency in water charges, emphasizes upon ensuring fair pricing for drinking and other water uses (7.1). To ensure affordability of water resources, the policy suggests to adopt the principle of differential pricing for different water uses and insists that the water pricing for pre-emptive uses of water should be retained (i.e. the basic needs of human being). Notably, in the policy, the water charges are subject to increase; according to the text of the policy, the purpose is to control wastage and ensure efficiency (7.1 and 7.4).

## If National Water Policies Ensure Water For/to All as per the Value of Right to Water

The observations made above present that India's national water policies concerns to ensure that water is for all and insists that it should reach all. However, the researcher finds it difficult to say if the policies have fulfilled the criteria of availability, accessibility and acceptability, proposed by the concept of Right to Water. The guidelines in this regard have offered some tight and specific measures, as discussed in Chapter Three of the present study.

Chapter Three of the present study has explained that the entitlement of right to water ensures sufficient, continuous and affordable supply of water[cccxiii]. This denotes that if a policy aims to ensure right to water then it should embrace the standardized/universal values of availability, accessibility and acceptability. However, required balances are not found in India's national water policies. The researcher thinks that even the most emphasized purpose of the three policies i.e. ensuring social equity and social justice is an incomplete idea. This is because the proposed idea has not defined the meaning of social equity and social justice. It is a disturbing fact that all the three policies are silent on questions like what is supposed to be the benchmarks for quality and quantity. The policies while insisting on the use of new technology are not offering what should be considered as sufficient quantity of water and what should be the standard of water quality. The policies commonly urge to control effluents without offering any measures and standards for the same.

On the question of minimum availability of water, the policies are either silent or unclear. For instance, the NWP of 1987 and 2002 are silent on the question on what should be the minimum availability. The national water policy of 2012 insists for minimum availability; however, it has not defined what minimum availability stands for[cccxiv]. Still, in a given situation, features such as to ensure minimum distance of water availability and suggestion to ensure

tap water to every household, stated in this policy are better than the other two policies.

Notably, the policies commonly emphasise to ensure economic accessibility and insist that charges on water uses should be affordable to all. However, the policies, while suggesting affordability and advocating for water subsidy to the poor, are not addressing what is and should be affordable to the poor. Since policies suggest for fixation of water pricing, one can presume that the water charges are maintenance charges and not charged to gain profit. The understanding can be claimed as considerable however with certain limitations as in respect to water pricing, the three policies have some major shortcomings. For instance, in NWP of 2002 and 2012 water distribution is allowed to be operationalized by the private sector. The fundamental question is if the private sectors will ensure equal accessibility of water at an affordable price.

The Table 5.1 presents that in the process of water allocation, the policies have ignored the third important kind of accessibility, i.e. cultural accessibility. Unfortunately, there is no mention about the use of water for traditional cultural practices. The researcher thinks that the ignorance to cultural accessibility is equally disturbing, as for a nation like India, use of water for cultural practices represents cultural diversities and is deeply attached with social and cultural identities. It is surprising how a policy can ignore a subject that is socially and politically sensitive.

Clearly, in India's three national water polices the idea that water is for all has been considered; however, the considerations are too thin and do not hold the required depth in favor of Right to Water. This creates doubts if the goals of right to water that are to ensure availability, acceptability and affordability will be appropriately attained by India's national water policies.

#### 5.3.1.2: Children, Women, Disadvantaged and Disabled as Special Beneficiaries

The discussions elaborated in Chapter Three of the present study underlines that the idea of Right to Water is argued as just because its core principles

urge to identify the real beneficiary, and while so doing, advocate for positive discrimination. This implies that a policy document in order to fulfill the idea of Right to Water has to entitle commons to use water and while so doing should give special preferences to the needs of children, women, disadvantaged and disabled. The researcher thinks that the inclusion of special beneficiary in a policy document is extremely important for the real entitlement of Right to Water as it legitimizes the privileges supposed to be given to children, women, disadvantaged and the disabled. Since the idea of special beneficiaries is attached to the concept of Right to Water, the following paragraphs examines if India's national water policies have recognized the idea, in the way required.

**Table 5.2: Children, Women, Disadvantaged Sections and Disabled as Special Beneficiaries**

| Component of Distribution | NWP of 1987 | NWP of 2002 | NWP of 2012 |
|---|---|---|---|
| **Children, women disadvantaged sections and disabled as beneficiary** | **4.5 Special efforts should be made to investigate and formulate projects either in, or for the benefit of, areas inhabited by tribal or other specially disadvantaged groups such as Scheduled Castes and Scheduled Tribes. In other areas also, project planning should pay special attention to the needs of Scheduled Castes and Scheduled Tribes and other weaker sections of society** | **6.5 Special efforts should be made to investigate and formulate projects either in, or for the benefit of, areas inhabited by tribal or other specially disadvantaged groups such as socially weak, Scheduled Castes and Scheduled Tribes. In other areas also, project planning should pay special attention to the needs of Scheduled Castes and Scheduled Tribes and other weaker sections of the society. The economic evaluation of projects benefiting such disadvantaged sections should also take these factors into account** | **9.6 ……The unique needs and aspirations of the Scheduled Castes and Scheduled Tribes, women and other weaker sections of the society should be given due consideration** |

**Commentary on the Selected Sections of the Three Policies: An Analysis of the Table**

Table 5.2 highlights that positive discrimination in the process of water allocation is a common point in all the three water policies. The policies, to ensure positive discrimination, suggest that special efforts be made so that the disadvantaged groups such as Scheduled Castes/Scheduled Tribes can enjoy water as their right. The suggestions of the three water policies in favor of disadvantaged groups is noticeable as each water policy, while identifying disadvantaged groups, adds a new community and allocates water accordingly. The Table 5.2 shows that the attention to the needs of disadvantaged groups is given in the very first national water policy. The NWP of 1987 states that the purpose of planning and project formulation is to give benefit to the Scheduled Caste and Scheduled Tribes and other weaker sections (4.5). The NWP of 2002 follows the purpose with an addition and suggests that while making economic evaluation of projects, benefits of the disadvantaged sections should be considered (6.5). The third national water policy i.e. NWP of 2012, adds women in the disadvantaged category and suggests to ensure them as beneficiary (9.6). The policy insists that along with the needs of the Scheduled Castes and Scheduled Tribes, the unique needs and aspirations of women too should be considered.

**If Children, Women Disadvantaged Sections and Disabled are classified as Special Beneficiaries in the National Water Policies**

Chapter Three of the present study has described that it is accepted globally that scarcity and mismanagement of water resources has affected human life. However, among all, children, women, disabled and the sections that are disadvantaged socially and economically, are the most affected. The idea of Right to Water, while identifying the real beneficiaries, argues that they be considered as special beneficiaries. The argument is important as it brings all sections who are water disadvantaged at a single level and entitles them as commons. This avoids unnecessary divides and ensures water freedom along with water equality. Notably, the sections of the three national water policies

have not focused on the requirements of the disadvantaged as common but the idea of disadvantaged is restricted to the Schedule Caste and Scheduled Tribes. Even a woman, who is argued to be a water sufferer since long is considered as a beneficiary only in the NWP of 2012. The researcher thinks that it is unfortunate that India's national water polices have repetitively viewed social category, i.e. caste as water disadvantaged. This has done injustice to the groups who may not come in the same social category but are equally or even more disadvantaged in view of water availability, accessibility and affordability. The policy considers other weaker sections as well, but what is the meaning of weaker sections is not clearly defined. A valid doubt in this view is that if a woman can be consider as beneficiary, even lately, why children and disabled are not being considered the same. In comparison to any other group, for children and the disabled, economic and physical accessibility of water is difficult. The question is if it is appropriate for a policy to ignore the fact that after women, children are the ones who have responsibility to fetch water for the family's daily requirement. Moreover, for the disabled, fetching water for their daily needs is out of question. It is surprising that India's national water policies have conveniently ignored such realities. The researcher, in the view of such facts, argues that the considerations of beneficiaries in India's national water policies are incomplete, as not all disadvantaged groups are treated as beneficiaries and in the given situation, their claim to be treated as especially privileged will suspend automatically.

#### 5.3.1.3. Needs and Priority of Water Uses

It is understood from Chapter Three of the present study that the value of Right to Water to all and water for all is incomplete if uses of water are not prioritized, appropriately. The international documents while offering guidelines and measures, elaborate on the scope of right to water and identify water uses, with priorities. An ideal water policy, which intends to follow these guidelines, has to allocate water to different water users, essentially, with appropriate priorities. The researcher believes that to ensure the entitlement on right to water, declarations of appropriate priorities in policy documents are extremely important. This is because mentions like such allows to use water first for life and then for development, which ultimately supports to the idea of

real beneficiaries. In the view of importance and priorities, the following sections explore if and how the three national water policies directly or indirectly refer to the priority of water uses.

**Table 5.3: Needs and Priority of Water Uses**

| Component of Right to Water | NWP 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| Needs and Priority of water uses | **4.1…. Water resource development projects should as far as possible be planned and developed as multipurpose projects. Provision for drinking water should be a primary consideration. The projects should provide for irrigation, flood mitigation, hydro-electric power generation, navigation, pisciculture and recreation wherever possible.**<br><br>**8. In the planning and operation of systems, water allocation priorities should be broadly as follows: Drinking water, Irrigation, Hydro-power, Navigation, Industrial and other uses. However, these priorities might be modified if necessary in particular regions with reference to area specific considerations.**<br><br>**9. Adequate drinking** | **1.8 The drinking water needs of people and livestock have also to be met. Domestic and industrial water needs have largely been concentrated in or near major cities.**<br><br>**5. In the planning and operation of systems, water allocation priorities should be broadly as follows: Drinking water, Irrigation, Hydro-power, Ecology, Agro-industries and non-agricultural industries, Navigation and other uses. However, the priorities could be modified or added if warranted by the area / region specific considerations.**<br><br>**6.1 Water resource development projects should as far as possible be planned and developed as multipurpose projects. Provision for drinking water should be a primary consideration**<br><br>**6.3 In the planning, implementation and operation of a project, the preservation of the quality of environment and the ecological balance should be a primary consideration. The adverse impact on the environment, if any, should be minimised and should be** | **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.**<br><br>**7.4 …….and high priority allocation for ensuring food security and supporting livelihood for the poor. Available water, after meeting the above needs, should increasingly be subjected to allocation and pricing on economic principles so that water is not wasted in unnecessary uses and could be utilized more gainfully.** |

| | | | |
|---|---|---|---|
| | **water facilities should be provided to the entire population both in urban and in rural areas by 1991. Irrigation and multipurpose projects should invariably include a drinking water component, wherever there is no alternative source of drinking water. Drinking water needs of human beings and animals should be the first charge on any available water.** | **offset by adequate compensatory measures. The project should, nevertheless, be sustainable**<br><br>**19.1 Drought-prone areas should be made less vulnerable to drought-associated problems through soil moisture conservation measures, water harvesting practices, minimisation of evaporation losses, development of the ground water potential including recharging and the transfer of surface water from surplus areas where feasible and appropriate. Pastures, forestry or other modes of development which are relatively less water demanding should be encouraged. In planning water resource development projects, the needs of drought-prone areas should be given priority.** | **11.2 …...Where alternate supplies are available, a source with better reliability and quality needs to be assigned to domestic water supply. Exchange of sources between uses, giving preference to domestic water supply should be possible.** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.3 presents that all the three national policies have a clear vision about water uses with clear priorities. All the three national water policies confer priority to drinking water and also suggest ensuring other water related needs of human life.

The Table shows that the NWP of 1987 prioritises drinking water to the entire population i.e., both to urban and rural (9) and advocates that priority to drinking water should be given and ensured through all the major multipurpose projects (4.1 and 9). The policy suggests that after satisfying the needs concerning drinking water, water should be allocated to irrigation, hydropower, navigation, industrial and other uses (8). The sections of the NWP of 1987, mentioned in the table, reflect that the priority order are not absolute but are changeable as per the situation and specific requirements (8).

The NWP of 2002, while giving priority to drinking water, follows the priority order offered by NWP of 1987 and adds new priorities. It is correct to say that

the policy has repetition of priorities, with a shift of priority of order. Initially the policy has considered water needs in the context of domestic and industrial uses and has contextualized it mainly with reference to the needs of major cities (1.8). However, in the subsequent sections, priorities of water uses are not maintained in the same order but are rearranged with reference to ecology, agro industrial and non-agricultural industries (5). The policy, while addressing the issue of priority, gives special priority to the needs of drought-prone areas and insists upon minimizing their vulnerability (19.1). The policy insists that the preservation of the quality of environment and the ecological balances should be a primary concern of policy planning and implementation (6.1. and 6.3).

The Table denotes that on the question of water use priorities, the suggestions given in the NWP of 2012 are more precise. Instead of giving order of priority, the policy suggests that water should first be supplied to fulfill pre-emptive needs and only then to high priority needs. The list of pre-emptive needs includes safe water for drinking and sanitation while high priority needs include use of water to ensure food security, substance agriculture and balanced eco system (1.3(vi). The policy includes the livelihood needs of the poor and emphasises that other uses of water should be allowed only after fulfilling first the pre-emptive water needs (7.4). The policy insists that preference to domestic supply should be maintained in every exchange of water resources (11.2).

**If process of Water Allocation referred to in the Three National Water Policies Integrates the Principle of Priority Orders**

Chapter Three of present study has discussed that the problem of rights over water resources is actually a problem of priority, which has been appropriately addressed by the concept of Right to Water. The principle of priority is an important component of the concept of Right to Water which argues for water freedom with equality. While so arguing the concept insists that the first use of water for life cannot be compromised. The concept advocates that use of water for various purposes be allowed; however, the same cannot be unlimited or

uncontrolled and cannot go against the right to have water for drinking, as Chapter Three of the present study has defined. This implies that for the entitlement of right to water, use of water with appropriate priority needs to be adequately placed in the policy document. This further means that to have good life, uses of water resources, other than drinking, are also important. The researcher, while investigating India's national water policies, noted that all the three policies focus on the question of priorities of water uses to larger extent, however, with multiple confusions as Iyer (2002) has observed.

All the three policies give priority to drinking water; however, in comparison to the first two policies i.e. NWP of 1987 and 2002, the NWP of 2012 is more appropriate. This is because it gives priority not only to drinking water but to safe drinking water which is indeed another important component of Right to Water as discussed in Table One of the present chapter. The researcher thinks that the approach of the first two policies i.e. NWP of 1987 and 2002, to the idea of priority is not in favor of Right to Water as in these policies the preferences to water uses are suggested as priorities, and are subject to change and modifications as per the situation. This means that the priority order can be suspended and the suspension can be justified by the obligatory parties on the ground of requirement of situation and time. The researcher thinks that the idea of priorities and their suspension is highly confusing in the National Water Policy of 2002 as Iyer (2002) argues. The NWP of 2002 gives priorities to too many subjects, including ecology, environment balances and development. The researcher believes that in the policy implementation of such priorities will create confusion regarding the scope of use(s) of water. Since policies have put commercial irrigation and irrigation for substance or livelihood on the same footing, water usage to produce eatables as food will definitely get disturbed. Notably, these limitations are removed in the third water policy of 2012, as it has given a precise understanding on order of priorities of water uses. However, since the policy does not suggest required details on the priorities order, it remains doubtful how priorities will be fulfilled in the process of implementation. Since various uses of water resources are often placed on the same footing, it is essential to decide which use should be allowed first or prioritised. The researcher believes that since

none of the policies has identified priority of water uses in the sense of rights of individuals, there is a doubt if the policies will fulfill the promise of water freedom in the sense of equality as defined in the concept of Right to Water.

### 5.3.2. Identifying Obligations and Obligatory Parties

Chapter Three of the present research has explained that the idea of Right to Water emphasises that for the realization of right to water to all, duties concerning the fulfilment of right to water are required to be recognized and executed appropriately. The concept, while offering a list of obligatory parties, underlines that realization of right to water is a process which requires collective obligation; where duties flow from top to bottom as well as from bottom to top. Accordingly, the top obligators i.e. the union/state/local governments are the major obligatory parties who have the obligation to fulfill, maintain and preserve the right to water to all, with the support from other parties (including the private sector)[cccxv].

The civil society including NGOs, researchers and citizens as the bottom obligators, bear duty to preserve the idea of Right to Water, indeed in different way, as Chapter Three of the present study states. The idea of Right to Water suggests that civil society, NGOs, researchers and citizens have an equal duty to protect and preserve water resources. It is expected that they together will draw attention of water suppliers towards unjust water supply practices and will raise voice against water injustices, whenever required. Thus, for the entitlement of right to water to all, fulfillment of duty by each stakeholder/party is important and essential. In view of the importance of the fulfilment of duties to enjoy right to water, the following section explores if Indian water policies identify the government, private sector, civil society, researchers and citizens as duty bearers.

### 5.3.2.1. Government (Union/State/ Local) as Duty Bearers

Water can be enjoyed as a right only when it has been allocated by a legitimate authority, identified and endorsed as responsible for the same. The concept of Right to Water has identified the union, state and local governments and institutions as the primary duty bearers. The idea underlines that the governments (union/state/local) bear the duty to *facilitate*, i.e. take positive measures, to *promote,* i.e. to provide appropriate education and to *protect*, i.e. to take measures to minimize wastage. Here, the duty, which is constant, is positive as well as negative. The combination of the positive and negative of the duty ensures that the governments will not interfere with a person's access of water and will prevent any third party to do so[cccxvi]. This further clarifies that the responsibility of the governments does not wither way, even if the duty of water allocation gets transferred to private sectors. Thus, the duty of governments to supply water, equally, remains constant in all situations[cccxvii]. Since the obligations of the government, in respect to Right to Water is significant, this section discusses if India's national water policies have identified the role of government as duty bearers.

**Table 5.4: Government (Union as well as State) as Duty Bearers**

| **Obligatory party** | **NWP 1987** | **NWP 2002** | **NWP 2012** |
|---|---|---|---|
| **Arrangements of Duty Bearing** | **3.2….. 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** | **4.2 Appropriate river basin organisations should be established for the planned development and management of a river basin as a whole or sub-basins, wherever necessary.**<br><br>**10. …. A skeletal national policy in this regard needs to be** | **1.3(iv) 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.**<br><br>**2.1 There is a need to evolve a National Framework Law as an umbrella statement of general principles governing the** |

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| **Responsibilities Governments (union, state and local bodies)** | **that the best possible combination of options can be made.**<br><br>**17….The States and Union territories should also undertake all requisite steps to ensure that indiscriminate occupation and exploitation of coastal strips of land are discouraged and that the location of economic activities in areas adjacent to the sea is regulated.** | **formulated so that the project affected persons share the benefits through proper rehabilitation. States should accordingly evolve their own detailed resettlement and rehabilitation policies for the sector, taking into account the local conditions. …..**<br><br>**18.1…. The States and Union Territories should also undertake all requisite steps to ensure that indiscriminate occupation and exploitation of coastal strips of land are discouraged and that the location of economic activities in areas adjacent to the sea is regulated.**<br><br>**18.2 Each coastal State should prepare a comprehensive coastal land management plan, keeping in view the environmental and ecological impacts, and regulate the developmental activities accordingly.**<br><br>**24. There should be proper organisational arrangements at the national and state levels for ensuring the safety of storage dams and other water-related structures consisting of specialists in investigation, design, construction,** | **exercise of legislative and/or executive (or devolved) powers by the Centre, the States and the local governing bodies. This should lead the way for essential legislation on water governance in every State of the Union and devolution of necessary authority to the lower tiers of government to deal with the local water situation.**<br><br>**2.2 Such a framework law must recognize water not only as a scarce resource but also as a sustainer of life and ecology. Therefore, 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.**<br><br>**3.2 The Centre, the States and the local bodies (governance institutions) must ensure access to a minimum quantity of potable water for essential health and hygiene to all its citizens, available within easy reach of the household.**<br><br>**4.2…. States should be incentivized to increase water storage capacity, which inter-alia should include revival of traditional water harvesting structures and water bodies.**<br><br>**7.1 …. Equitable access to water for all and its fair pricing, for drinking and other uses such as sanitation, agricultural and industrial, should be arrived at through independent statutory Water Regulatory Authority, set up by each State, after wide ranging consultation with all stakeholders.**<br><br>**12.7 States should be encouraged and incentivized to undertake reforms and** |

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| | | **hydrology, geology, etc. A dam safety legislation may be enacted to ensure proper inspection, maintenance and surveillance of existing dams and also to ensure proper planning, investigation, design and construction for safety of new dams. The Guidelines on the subject should be periodically updated and reformulated. There should be a system of continuous surveillance and regular visits by experts.** | **progressive measures for innovations, conservation and efficient utilization of water resources**<br><br>**15.1 Continuing research and advancement in technology shall be promoted to address issues in the water sector in a scientific manner. Innovations in water resources sector should be encouraged, recognized and awarded.**<br><br>**15.4 An autonomous center for research in water policy should also be established to evaluate impacts of policy decisions and to evolve policy directives for changing scenario of water resources.**<br><br>**15.5…A national campaign for water literacy needs to be started for capacity building of different stakeholders in the water sector.**<br><br>**16.2 The State Water Policies may need to be drafted/revised in accordance with this policy keeping in mind the basic concerns and principles as also a unified national perspective** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

The Table 5.4 demonstrates that all the three water policies commonly state that the Union/ State/ Local governments have certain duties to be performed[cccxviii]. However, descriptions of referred duties are different and lengthy. In comparison to the first two policies the recent policy i.e. NWP of 2012 is more comprehensive as the above Table shows.

The Table 5.4 denotes that the first national water policy drafted in 1987, obligates the Indian states to make plans for a basin and sub-basin (3.2) and insist that States and Union Territories should prevent exploitation of coastal strips of land and undertake steps to discourage economic activities in areas adjacent to the sea (17). Clearly, in the policy, the government is not under

obligation to supply water. The NWP of 2002 repeats the same obligation (18.1) and emphasizes on the requirement of establishment of basin and sub-basin organization (4.2). The Table 5.4 presents that in this policy, the duty of the states is outlined in multiple contexts including preparing a coastal plan in view of the environmental and ecological impacts, regulation of development activities and to make plans to ensure safety of dam and water related structures (18.2 and 24). In the NWP of 2012, the meaning of obligation is altogether different as the obligations are drawn in the context of public trust doctrine (1.3 (iv) and 2.2). The policy while emphasizing on the idea of trust doctrine insists that the center, state and local bodies should ensure access to a minimum quality of potable water for essential health and hygiene to all its citizens (3.2). To obligate the union, state and local governments, equally, the policy calls for devolution of authority to the local tire (2.1). The policy insists that the union government should attain general governing principles by offering a national framework of law (2.1 and 2.2). The state governments on the other hand should undertake responsibility to ensure equitable access to water to all, encourage reforms and progressive measures (12.7) and establish an independent statutory Water Regulatory Authority for the same (7.1). The Table presents that the policy obligates governments to encourage research and establish academic institutions and research centers to suggest best use of water resources. To promote skilled man power in water sector, the policy calls for advancement of technology (15.1) and training in water management (15.5) and emphasises the need for a national campaign for water literacy that can help in capacity building of each stakeholder. The policy suggests that the ultimate obligation of the government is to evolve policy directives for changing the situation/scenario of water resources and to attain this purpose the government needs to establish an autonomous center of water policy research to evaluate adequately the impact of the policy (15.4). The policy instructs the states to redraft and revise their water policies as per the directives of the national water policies (16.2).

**If India's National Water Policies offer Appropriate Measures to Ensure Government's Obligations with respect to Right to Water**

The commentary on Table 5.4 provides that all the three policies establish certain obligations on the government; however, the same is hardly seen in the context of allocation of water. The first two policies have ignored the significance of water distribution and have actually suggested nothing in this regard. For instance, the obligations of state governments to make plans for basin and sub-basin areas and the duty to prevent the exploitation of coastal strips of land, mentioned in the NWP of 1987, is not linked with obligation of water distribution. Hence, it is difficult to understand if the governments have a duty to allot water as per the principle of Right to Water. The NWP of 2002 suggests the union government to observe the impact of project planning on environment and ecology; however, it is quiet on whether such project planning concerns water allocation or not. It should further be noted that in the NWP of 2002, the possible obligations of local governments are not recognized; however, they got constitutional status in 1992. It is surprising how allocation of water which indeed is a local issue, is not viewed as a duty of the local governments (Iyer, 2002). In the view of the limitations of the two policies, it would be correct to say that the duties of the government to respect, protect and fulfill water resources are not observed in the first two policies. In comparison to these two water policies, the third water policy is relatively better as it assigns governments to ensure minimum water availability and obligates all the three tier of the government to fulfill the same. Since the policy has clearly made the union and state governments responsible for changing the water scenario, one can say that the NWP of 2012 has identified the duty of the government and by doing this it has integrated an important component of Right to Water in the policy framework.

### 5.3.2.2. Duty Bearing Responsibilities: Private Sector Water Providers

A fact derived from the discussion, elaborated in Chapter Three of the present study, provides that in the contemporary water management systems,

existence of private sector is important in two references i.e. as the water users and as water providers. Being users of the largest quantity of water, private water users have the duty to prevent water wastage[cccxix] and as water providers, they have to fulfill people's water requirements as per the values of Right to Water. Here, in the process of water allocation, their role as water provider needs to be studied as a need for achieving efficiency in water supply. Chapter Three of the present study has provided that international organizations, including the United Nations, allows and encourages participation of private sector in water management on a condition that its participation in the process of water allocation will increase efficiency in water supply and not disturb the idea of water equality. To ensure the same the documents released by these organizations obligates private sectors to *respect, protect and fulfil* right to water to all. These obligations imply that such private actors, regardless of their size, sector, structure and location, have a responsibility to ascertain right to water to all and to catalogue the relevant right to water standards (Danish Institution, 2014). Since the obligation of public sectors i.e. union and state governments, remains constant, the documents, especially Comment 15 has considered private sectors as secondary duty bearers. Notably, such considerations have established the private sector as private water providers, who as non-state actors, are entitled to provide services for water management. The obligation thus is clear and need to be examined in the context of India's national water policies. The following sections discuss if the obligations of private sectors are appropriately considered on the lines of Right to Water.

**Table 5.5: Duty Bearing Responsibilities Private sector as water Supplier**

| Obligatory party | NWP 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| **Arrangements of Duty Bearing Responsibilities Private sector water provider** | **Not mentioned** | **13. 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.** | **11.6 Industries in water short regions may be allowed to either withdraw only the makeup water or should have an obligation to return treated effluent to a specified standard back to the hydrologic system. Tendencies to unnecessarily use more water within the plant to avoid treatment or to pollute ground water need to be prevented.**<br><br>**12.3 Water resources projects and services should be managed with community participation. 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** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.5 points out that the NWP 1987 has not identified the private sector as an obligatory party. The role of the private sector as a water service provider is first introduced in the NWP of 2002 and is maintained in NWP of 2012. The reading of the sections of NWP of 2002 points that the involvement of the private sector is encouraged in three contexts which includes planning,

development and management of water resources. The obligations are not direct and clear but are pointed in the context of expectations as it states that the involvement of the private sector will increase participation and may provide innovative ideas and generate financial resources. The policy intends to improve efficiency and for this encourages participation of the private sector for building, owning, operating and leasing and transferring of water resources facilities (13). Clearly, the ultimate purpose of allowing private participation is to increase efficiency and accountability in water management (13). The NWP of 2012 obligates industries as a part of the private sector in context of prevention of water wastage and water pollution. To control the wastage of water resources, the policy instructs industries that they withdraw only make up water and return treated effluents to a specific standard, back to the hydrologic system (11.6). The policy proposes that the association of governments with the private sector should essentially improve service delivery on a sustainable basis. The policy clearly states that the private sector actors as private water providers are accountable to democratically elected local bodies who have the authority to take penalties for failure in efficiency in water supply (12.3).

**If the Obligations of the Private Sector, referred to in India's National Water Policies Integrate the value of Right to Water**

The comments presented in the context of Table 5.5 shows that the three national water policies have not identified private water providers as obligators of water supply. In the NWP of 1987, there is no mention of the role of the private sector and in the NWP of 2002; their participation is viewed in the context of planning, development and management of water resource projects. While suggesting on the role of private sector, in water management, the NWP of 2002 states that the private sector has the potential to introduce innovative ideas that may help to improve services. This implies that the policy views water allocation as a question of efficiency and hence allows private sectors not only to participate but also to build, own, operate, lease, and transfer water resources. Such participation indeed creates a sense of

private ownership over water resources, which is an idea against the spirit and values of Right to Water as discussed in Chapter Three of the present study. Since the policy has not referred to private participation in the context of obligation, there is a clear threat to the fulfillment of the objectives of right to water. There is a doubt that the private water provider, while owning and operating water resources will not ensure water equality but will focus on efficiency in water allocation with reference to maximum profits. The NWP 2012, at a glimpse, obligates private water providers. However, the obligation is not towards people but towards elected leaders. This creates a doubt if the obligation is real. A clear threat emerges as political incompetence will legitimize the unjust water practices, practiced by private sectors and will lead to water injustice. Since duties of private sectors with regard to water allocation is defined in the context of water efficiency and not with reference to water equality and water justice, it is problematic to state if India's national water policies–reflect the value of Right to Water.

#### 5.3.2.3. Citizens, Civil Society and Research Community as Duty Bearers

Chapter Three of the present study, while elaborating on the idea of Right to Water, described that realization of right to water requires a higher civic sense. It is expected that the citizens, civil society and the researchers will support government's initiatives to make right to water a reality. A constant duty of citizens in this regard is to preserve water for future requirement and not pollute or waste water resources. The duties of civil society are dual i.e. both, positive and negative in nature. The concept of Right to Water expects that the civil societies, while playing a positive role, should uphold the right holder's perspectives and make people aware about their rights over water resources. Moreover, civil society should support the state by participating and helping government institutions and machineries in the decision-making processes. The negative role is obviously critical in nature, which holds that civil society should compel water distributors (both public and private) to fulfill and protect rights of individuals and communities over water resources. The idea of Right to Water importantly identifies the research community as

duty bearers and illustrates the duties of researchers[cccxx]. The idea insists that the research community should identify and develop new research areas and should develop understanding on equality issues in water distribution/ pricing /cost recovery. The researcher thinks that since the argument that holds citizens, civil society and research community as duty bearers, is presented strongly in the idea of Right to Water, it is essential to explore if the same is included/mentioned in India's national water policies. With this in view, the following section discusses the status of duties of citizens, civil society and the research community.

**Table 5.6: Duties of Citizens, Civil Society and Research community**

| Obligatory party | NWP 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| **Duties for citizens and civil society (national NGOs and intellectuals)** | **Not mentioned** | **Not mentioned** | **Not mentioned** |
| **Requirement of research and duties of Researchers** | **19. For effective and economical management of our water resources, the frontiers of knowledge need to be pushed forward in several directions by intensifying research efforts in various areas…** | **25. For effective and economical management of our water resources, the frontiers of knowledge need to be pushed forward in several directions by intensifying research efforts in various areas, including hydrometeorology, snow and lake hydrology and so on….** | **4.4 Stakeholder participation in land-soil-water management with scientific inputs from local research and academic institutions for evolving different agricultural strategies, reducing soil erosion and improving soil fertility should be promoted. The specific problems of hilly areas like sudden run off, weak water holding capacity of soil, erosion and sediment transport and recharging of hill slope aquifers should be adequately addressed.**<br><br>**10.2 Land, soil, energy and water management with scientific inputs from local, research and scientific institutions should be used to evolve different agricultural strategies and improve soil and water productivity to manage droughts. Integrated farming systems and non-agricultural developments may also be considered for livelihood support and poverty alleviation**<br><br>**15.1 Continuing research and** |

| | | | |
|---|---|---|---|
| | | | **advancement in technology shall be promoted to address issues in the water sector in a scientific manner. Innovations in water resources sector should be encouraged, recognized and awarded.**<br><br>**15.4 An autonomous center for research in water policy should also be established to evaluate impacts of policy decisions and to evolve policy directives for changing scenario of water resources.**<br><br>**15.5 To meet the need of the skilled manpower in the water sector, regular training and academic courses in water management should be promoted. These training and academic institutions should be regularly updated by developing infrastructure and promoting applied research, which would help to improve the current procedures of analysis and informed decision making in the line departments and by the community. A national campaign for water literacy needs to be started for capacity building of different stakeholders in the water sector.** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.6 presents that all the three national water policies have neglected the role of citizens and civil society and have thus not placed them as duty bearers. However, special attention is given to the significance of researches and duties of research communities. The Table (5.6) infers that the NWP of 1987 and 2002 emphasize the requirement of research and insist that research efforts are required to be made in various directions, including hydro-metrology, snow and lake hydrology (NWP 1987; 19 and NWP of 2002; 25). The NWP of 2012 has extensive hope from the research community. It views the significance of their contribution in the context of improvement of agricultural strategies (10.2) and advancement of technology (15.1). The policy proposes that technology and scientific inputs, given by the local research and academic institutions, should be used to address water related

issues, including the problems related to hilly areas (4.4). To encourage research and to evaluate impacts of policy decisions, the policy suggests that it is essential to establish an autonomous center for research in water policy (15.5). The policy emphasises that to meet the requirement of skilled manpower, regular training and academic courses in water management should be promoted and regularly updated by developing infrastructure. The policy advocates promotion of applied research for the same. Table 5.6 draws the conclusion that the policy expects that such promotion may improve the current procedures of analysis and informed decision making in the line departments and by the community (15.5). Moreover, the policy assumes that this may help in attaining policy directives for changing the scenario of water resources (15.4).

## If India's National Water Policies Have Standardized the Duties of Citizens, Civil Society and Research Community with respect to Right to Water

In the discourse of Right to Water, citizens and civil society are recognized as obligatory parties who together take an initiative to protect and promote water resources, as Chapter Three of the present study has mentioned. In the policy documents, the role of citizens and civil society is required to be defined properly as obligations fulfilled by them create a culture and attitude that helps in addressing problems related to water distribution and also support in making policy decisions and developing strategies for the same.

Unfortunately, in India's national water policies, requirement of proposing role of citizens is been ignored. The researcher thinks that here, the offerings of people's participation in water planning cannot be considered as a part of obligations of people. This is because the proposed participation in the decision-making processes creates a facility, ensured by the government to the people[cccxxi]. In the policies, people's participation is encouraged with reference to big projects, purpose of which is often far from right to water. The big projects, while proposing strategies on water supply often focuses mega requirements of irrigation, industry and power (energy), which ignores the

basic right to have water for drinking and household purposes. The researcher believes that proposed participation of such nature have created obligations for government and not for the people. The policy suggests ways to ensure people's participation in water planning; however, it does not answer the problem as to what to do if people are not willing to participate in water planning.

Similarly, in the national water policies, there is no reference of the role of civil society. It appears as a fact that the significance of duties performed by civil society, that have competence to pressurizes the government to have a policy to entitle and implement right to water, is been ignored. Such an absence has created a serious vacuum and hurdle in the fulfillment of right to water as there is no civic pressure on the governments to have a water policy that ensures right to water for all[cccxxii].

Disregard for the role of citizens and civil society implies that the union water policies have considered public and private water distributers as a solo obligator. In the view of the principles of Right to Water, this indeed is an incorrect approach as realization of right to water calls for identifying the role of different stakeholders, including citizens and civil society and insists upon elaborating their duties in a policy document.

The comments given in the reference of the table 5.6 point out that all the three national water policy have given importance to research and research institutions. However, there are two limitations in this respect. Firstly, the significance of research and research centers is not viewed in context of right to water to all and secondly, duties of the researchers are not explicitly mentioned but are pointed as possibilities and exceptions, government is having from them.

In the three national policies, the dominance of the engineering disciple over other disciples is evident (Iyer, 2002). This encourages research activities to ensure efficient use of water resources in agriculture and industrial sectors, but while doing so it ignores the significance of research in addressing the issues relating to water equality. A serious doubt is that if the encouragement to

scientific advancement and economical management of water resources will ensure fairness in water distribution. This is because the focus of such research will be merely on generating storage capacity of water resources that cannot ensure that stored water will be supplied to all equally. A suggestion to establish a Center for Policy Research, proposed by the NWP of 2012, can be seen as a ray of hope as it insists encouraging research to evaluate policy impact and to change the water scenario. However, once again, the purpose of research, while evaluating water policy and suggesting change in the water scenario is in the direction of right to water or not, is quite unclear. The researcher thinks that in view of these limitations, it is rather difficult to say if the emphasis on research activities will lead to water justice as duties of research centers and researchers are not defined, in the line of Right to Water.

### 5.4. Status of Right to Water in the Union Water Policies: An Analysis of Management Strategies

Management strategies as the second important aspect of water policy suggest and explain how water resources are going to be managed in a given situation[cccxxiii]. The benchmarks drawn in the Framework, from this viewpoint, emphasize that the management strategies, while proposing the strategies to manage water resources, should integrate the key principles of Right to Water. The Framework, while elaborating on the benchmarks of management strategies, clarifies that the purpose of an ideal water policy in respect to Right to Water is to facilitate, protect and promote right to water for all. A policy document for this purpose makes a balance between the national and regional requirements and should establish adequate institutions and offer transparent, accountable and efficient mechanisms for the same. The Framework explains that to attain right to water to all, the management pattern should encourage people's participation and should discourage monopoly, exploitation and discrimination. The Framework identifies that sustainability and monitoring systems to ensure right to water is another important factor which should be the focus of the policy contents.

Clearly, according to the Framework, expectations from a water policy document, in respect to management strategies, are multiple. And hence, to explore the status of Right to Water in water policy documents, the expectations that are framed as benchmarks are required to be study in the reference of management strategies. The following section, for this purpose, discusses each benchmark as an expectation and principle of Right to Water and explores if management strategies offered in India's national water policy fulfills the expectations and integrates the elements of Right to Water.

### 5.4.1. Required Provisions for Infrastructures and Institutional Arrangements

Implementation of right to water rests on the institutional/organizational arrangements proposed in governmental documents. A policy document in this respect has to establish institutions that are efficient in water allocation and in managing water resources. Since in the absence of these institutions, right to water is an empty promise, it is important to find if India's national water policies propose to have efficient institutions and infrastructures. In view of this, the following paragraphs explore if India's three national water policies establishes infrastructure and institutions to ensure right to water to all.

**Table 5. 7: Institutional arrangements to Ensure Right to Water**

| Component of Management | NWP 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| Infrastructure and institutional | 3.3. Appropriate organizations should be established for the planned development and management of a river basin as a whole. Special multidisciplinary units should be set up in each state to | 4.1 With a view to give effect to the planning, development and management of the water resources on a hydrological unit basis, along with a multi-sectoral, multi-disciplinary and participatory approach as well as integrating quality, | 6.7 There should be concurrent mechanism involving users for monitoring if the water use pattern is causing problems like unacceptable depletion or building up of ground waters, salinity, alkalinity or similar quality problems, etc., with a view to planning |

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| **arrangements** | **prepare comprehensive plans taking into account not only the needs of irrigation but also harmonizing various other water uses, so that the available water resources are determined and put to optimum use having regard to subsisting agreements or awards of Tribunals under the relevant laws.** | **quantity and the environmental aspects, the existing institutions at various levels under the water resources sector will have to be appropriately reoriented / reorganised and even created, wherever necessary. As maintenance of water resource schemes is under non-plan budget, it is generally being neglected. The institutional arrangements should be such that this vital aspect is given importance equal or even more than that of new constructions.**<br><br>**4.2 Appropriate river basin organisations should be established for the planned development and management of a river basin as a whole or sub-basins, wherever necessary. Special multi-disciplinary units should be set up to prepare comprehensive plans taking into account not only the needs of irrigation but also harmonising various other water uses, so that the available water resources are determined and put to optimum use having regard to existing agreements or awards of Tribunals under the relevant laws. The scope and powers of the river basin organisations shall be decided by the basin states themselves.** | **appropriate interventions**<br><br>**8.7 The water resources infrastructure should be maintained properly to continue to get the intended benefits. A suitable percentage of the costs of infrastructure development may be set aside along with collected water charges, for repair and maintenance. Contract for construction of projects should have inbuilt provision for longer periods of proper maintenance and handing over back the infrastructure in good condition.**<br><br>**12.1 There should be a forum at the national level to deliberate upon issues relating to water and evolve consensus, co-operation and reconciliation amongst party States. A similar mechanism should be established within each State to amicably resolve differences in competing demands for water amongst different users of water, as also between different parts of the State.**<br><br>**12.2 A permanent Water Disputes Tribunal at the Centre should be established to resolve the disputes expeditiously in an equitable manner. Apart from using the good offices of the Union or the State Governments, as the case may be, the paths of arbitration and mediation may also to** |

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| | | **23.3 Formation of Water Users' Association with authority and responsibility should be encouraged to facilitate the management including maintenance of irrigation system in a time bound manner.** | **be tried in dispute resolution.**<br><br>**12.4 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. The departments / organizations at Centre / State Governments levels should be restructured and made multi-disciplinary accordingly.** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.7 denotes that all the three national water policies encourage institutional and organizational setups, mainly for planned development and management of river basin as a whole (NWP of 1987; 3.3, NWP of 2002; 4.2 and NWP of 2012; 12.4).

The NWP of 1987, while advocating the establishment of appropriate organizations, insists on setting up special multidisciplinary units in each state. The policy clarifies that each unit must prepare comprehensive plans to harmonize various water uses so that maximum availability of water resources can be determined (3.3.). The NWP of 2002 extends the institutional requirements and emphasises on reorientation of institutions, which exists at different levels (4.1). The policy views the significance of these institutions in multiple contexts and insists on using them for planning, development and management of water resources on a hydrological unit basis as well as to integrate quality, quantity and environmental aspects (4.2.). To facilitate the management and maintenance of the irrigation system in a time bound manner, the policy suggests for formation of Water Users' Association (23.3). The researcher thinks that the vision for institutional setups is clearer in NWP of 2012 as it advocates for the establishment of infrastructures and institutions

for different purposes, including water conflicts. For instance, the policy, to address problems related to different water uses and to get the intended benefits, advocates the establishment of concurrent mechanisms and water resources infrastructures (6.7 and 8.7). Moreover, to deliberate upon issues relating to water, the policy emphasizes on establishing two mechanisms that would work at the national level as well as at the state level. The policy suggests that the forum, at the national level, should initiate to evolve consensus, co-operation, and reconciliation among States. Simultaneously, the forum at the State level (each) should initiate to resolve differences emerging between different users of water (12.1). The policy proposes that disputes between various parties should be resolved in an equitable manner and for this purpose a permanent Water Disputes Tribunal should be established (12.2). Importantly, the policy focuses on reconstruction of department/organizations, working at the Centre and state level and accordingly insists on making them multidisciplinary (12.4).

**If India's National Water Policies provide Institutional Arrangements to ensure Right to Water**

The comments on the various sections of India's national water policies points that for effective water management, all the three policies realize the significance of institutions and infrastructures; however, the same is not proposed in the context of idea of Right to Water. This study noted that the sections of the three water policies advocate establishing institutions and infrastructures for various purposes i.e. for planning, development, management of irrigation, river basin, hydrological unit and even for solving disputes. The researcher accepts that the purpose is important; however, it is an unavoidable fact that the same does not have direct connection with the fulfilment of right to water. The researcher thinks that the suggestions are supposed to be more precise. Unfortunately, the required clarity is not found in any of the policies. However, a thin proposal in this regard is noted in the NWP of 2002, section 4.1 of which states that institution and departments should be established to address the problems of quality, quantity and environment. Indeed, the suggestion is important for the entitlement of right to

water as the goals offered in it are directly linked with the idea of Right to Water. Moreover, an idea to establish institutions and departments to ensure co-operation, consensus and reconciliation among different states is welcoming. However, in the absence of required clarity, it is difficult to state if the same will ensure right to water to all. The researcher thinks that the provisions to establish institutions are dispute oriented and not rights oriented. The policies merely focus on the problems faced by states in water planning and ignore the problems faced by individuals. Given this understanding, institutions and departments, while managing water resources, will focus merely upon resolving water disputes and water conflicts and may not look into water management as an issue of right.

### 5.4.2 **Mechanism to ensure Regional Needs**

In the federal structure, the process of water management is complicated and challenging. The idea of Right to Water adds to the complexities as it expects that a water policy document, drafted by the union government should establish a common governing framework and while so doing, should ensure balance between the needs of different regions. This further emphasizes that regional requirements should be seen as a part of national requirements and adequate measures should be offered for their management. The researcher thinks that here the question of water equality is not limited to an individual's entitlement but the argument is in favor of states as group of different societies and sub-societies. The idea is this stance advocates that water resources should be planned at the national level and be managed in a way such that the benefits of equality could reach each state. The following paragraphs, while analyzing the national water policies, focuses on whether the policies address the regional needs adequately, and while so doing, ensure right to water to all.

**Table 5.8: National Objectives with Regional Preferences and Local Concerns (special cases of drought and floods)**

| Component of management | NWP 1987 | NWP 2002 | NWP 2012 |
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| National objectives with regional preferences and Local concerns (special cases of drought and floods) | **1.8 Water is one of the most crucial elements in developmental planning. As the country prepares itself to enter the 21st century, efforts to develop, conserve, utilise and manage this important resource have to be guided by national perspectives. The need for a national water policy is thus abundantly clear: water is a scarce and precious national resource to be planned, developed and conserved as such, and on an integrated and environmentally sound basis, keeping in view the needs of the States concerned.**<br><br>**3.4. Water should be made available to water short areas by transfer from other areas including transfers from one river basin to another, based on a national perspective, after taking into account the requirements of the areas/basins.**<br><br>**4.6 The planning of projects in hilly areas should take into account the need to provide assured drinking water, possibilities of hydro-power development and the proper approach to irrigation in such areas, in the context of physical features and constraints** | **1.4 Water is a scarce and precious national resource to be planned, developed, conserved and managed as such, and on an integrated and environmentally sound basis, keeping in view the socio-economic aspects and needs of the States. It is one of the most crucial elements in developmental planning. As the country has entered the 21st century, efforts to develop, conserve, utilise and manage this important resource in a sustainable manner, have to be guided by the national perspective.**<br><br>**3.5 Water should be made available to water short areas by transfer from other areas including transfers from one river basin to another, based on a national perspective, after taking into account the requirements of the areas / basins**<br><br>**6.4 …. The planning of projects in hilly areas should take into account the** | **1.1..The objective of the national water policy is to take cognizance of the existing situation, to propose a framework for creation of a system of laws and institutions and for a plan of action with a unified national perspective**<br><br>**1.3 (i) Planning, development and management of water resources need to be governed by common integrated perspective considering local, regional, State and national context, having an environmentally sound basis, keeping in view the human, social and economic needs.**<br><br>**2.1 There is a need to evolve a National Framework Law as an umbrella statement of general principles governing the exercise of legislative and/or executive (or devolved) powers by the Centre, the States and the local governing bodies. This should lead the way for essential legislation on water governance in every State of the Union and devolution of necessary authority to the lower tiers of government to deal with the local water situation**<br><br>**3.5 In the water rich** |

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| | **such as steep slopes, rapid run-off and the incidence of soil erosion. The economic evaluation of projects in such areas should also take these factors into account.**<br><br>**16. There should be a master plan for flood control and management for each flood prone basin. Sound watershed management through extensive soil conservation, catchment-area treatment, preservation of forests and increasing the forest area and the construction of check dams should be promoted to reduce the intensity of floods. Adequate flood-cushion should be provided in water storage projects wherever feasible to facilitate better flood management. An extensive network for flood forecasting should be established for timely warning to the settlements in the flood plains, along with the regulation of settlements and economic activity in the flood plain zones, to minimize the loss of life and property on account of floods. While physical flood protection works like embankments and dykes will continue to be necessary, the emphasis should be on non-structural measures for the minimization of losses, such as flood forecasting and warning and flood plain zoning, so as to reduce the recurring expenditure on flood relief.** | **need to provide assured drinking water, possibilities of hydro-power development and the proper approach to irrigation in such areas, in the context of physical features and constraints of the basin such as steep slopes, rapid run-off and the incidence of soil erosion. The economic evaluation of projects in such areas should also take these factors into account.**<br><br>**19.1 Drought-prone areas should be made less vulnerable to drought-associated problems through soil moisture conservation measures, water harvesting practices, minimisation of evaporation losses, development of the ground water potential including recharging and the transfer of surface water from surplus areas where feasible and appropriate. Pastures, forestry or other modes of development which are relatively less water demanding should be encouraged. In planning water resource development projects, the needs of drought-prone areas should be given priority.**<br><br>**21.1 The water** | **eastern and north eastern regions of India, the water use infrastructure is weak and needs to be strengthened in the interest of food security.**<br><br>**4.4…. The specific problems of hilly areas like sudden run off, weak water holding capacity of soil, erosion and sediment transport and recharging of hill slope aquifers should be adequately addressed.**<br><br>**8.4 Environmental needs of Himalayan regions, aquatic eco-system, wet lands and embanked flood plains need to be recognized and taken into consideration while planning.**<br><br>**11.1 There is a need to remove the large disparity between stipulations for water supply in urban areas and in rural areas. Efforts should be made to provide improved water supply in rural areas with proper sewerage facilities. Least water intensive sanitation and sewerage systems with decentralized sewage treatment plants should be incentivized.**<br><br>**12/.1 There should be a forum at the national level to deliberate upon issues relating to water and evolve consensus, co-operation and reconciliation amongst party States. A similar mechanism should be established within each State to amicably resolve differences in** |

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| | **18.1 Drought-prone areas should be made less vulnerable to drought associated problems through soil-moisture conservation measures, water harvesting practices, the minimization of evaporation losses, and the development of the ground water potential and the transfer of surface water from surplus areas where feasible and appropriate. Pastures, forestry or other modes of development which are relatively less water demanding should be encouraged. In planning water resource development projects, the needs of drought-prone areas should be given priority** | **sharing / distribution amongst the states should be guided by a national perspective with due regard to water resources availability and needs within the river basin. Necessary guidelines, including for water short states even outside the basin, need to be evolved for facilitating future agreements amongst the basin states.** | **competing demands for water amongst different users of water, as also between different parts of the State.** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.8 provides that the three national water policies emphasise that management of water resources should be governed by a national perspective. The policies suggest that while so doing the action planning should focus on the regional requirements and initiate to fulfill them appropriately (NWP of 1987; 1.8, NWP of 2002; 1.4 and NWP of 2012; 1.1 and 1.3 (i)). The NWP of 1987 and 2002 insists that the amalgamation of the national and regional requirements and managing of water resources accordingly is essential, as water is scarce and therefore it is the most crucial element of development planning (NWP of 1987; 1.8 and NWP of 2002; 1.4).

Table 5.8 demonstrates that the NWP of 1987, while emphasizing to develop, conserve, utilize and manage water resources with a national perspective (1.8), suggests that the exceptional requirements of water in water shortage areas (3.4), hilly areas (4.6) and areas affected by floods (16) and drought (18.1)

must be considered. To ensure water availability, the policy suggests the transfer of water from one area to another and also from one river to another (3.4). The policy explains that the need of drinking water in hilly areas should be fulfilled by the project planned for irrigation and hydropower development. To prevent the intensity of floods and to minimize the loss of life and property, the policy emphasizes on the need to have a master plan (16). Similarly, to minimize vulnerability of drought prone areas, the policy emphasizes encouragement of practices as water harvesting and minimization of evaporation loss and advocates for allowing transfer of surface water from surplus areas, if feasible and appropriate (18.1). The policy provides that the needs of drought prone areas must be considered while planning for water resource development. The Table denotes that the NWP of 2002 repeats almost all the provisions of the NWP of 1987. Like NWP of 1987, the policy emphasizes ensuring water availability to water short (3.5) and hilly areas (6.4) and insists that the needs of drought prone areas should be given priority (19.1). The policy stresses that to ensure water resource availability and to fulfill the needs of different river basins, water sharing among different states should be guided by a national perspective (21.1). Like NWP of 1987 and 2002, the NWP of 2012 states that the objective of the national water policy is to propose a Framework and plan of action with a unified national perspective (1.1). While emphasizing the requirement of a national perspective in water resource planning, the policy suggests having a legislation on water governance. The policy insists that to improve management of water resources, devolution of necessary authority at each level is essential. In respect of water management, the lower tiers of government should be allowed to handle local water situation (2.1). The policy importantly prioritizes the needs of the hilly areas and focuses on the environmental needs of the Himalayan regions and the requirements of wet lands and embanked flood plains (4.4 and 8.4). The policy urges that there is a need to remove the larger disparity between stipulations for water supply in rural and urban areas (11.1). While emphasising on the requirement of strong infrastructure, the policy accepts that the water use infrastructure of water rich eastern and north eastern regions is weak and need to be revived in the interest of food security (3.5).

**If Strategies of Water Resource Management offered in India's National Water Policies balances the National and Regional Requirements with reference to Right to Water**

Chapter Four of the present study, while exploring the idea of Right to Water in the Indian context, insists on two things. The chapter states that to respect and fulfill the concept of Right to Water, in federal setups, a national water policy requires to be framed with a national perspective and while so doing, it should also address regional requirements. This study noted that India's three national water policies are likely to fulfil these conditions as all three policies hold a national perspective and stress on addressing the regional requirements that are specific and different from region to region. The researcher here argues that explanations drawn in different sections of the national policies are important and are close to the principle of Right to Water, as they propose to ensure availability and accessibility of drinking water in all situations and to the regions facing the problem of water shortage. Suggestions like transferring water from one source to another in the national water policies of 1987 and 2002 indicate that the policies have considered water resources as national resources, over which each individual and state has an equal right[cccxxiv]. Since equal claim over water resources is one of the features of the idea of Right to Water, one can say that the policies fulfill one criteria of Right to Water.

### 5.4.3. Mechanisms to Facilitate, Protect and Promote Right to Water to All

The idea of water freedom and water equality, which is being argued in Chapter Three and is principled in the water policy analysis guiding Framework, insists that an ideal water policy should suggest measures to facilitate, protect and promote water as a right to all. It is noted that the three terms, i.e. facilitate, protect and promote, are the key ideas of the concept of Right to Water, each of which holds an extensive meaning. Since the terms denote taking positive (facilitate and promote) and negative (protect) actions, it is essential to explore if the meanings of these terms are understood and placed in India's national water policies. The following paragraphs therefore

highlight the sections of the three national water policies and discuss if the three national water policies fulfill the requirements of facilitating, protecting and promoting right to water to all. To explore the status of these three terms, in the context of India's national water policy the researcher has chosen to draw a single table and sub-divide them within. This is because while each of the term holds a different meaning, in policy action they cannot be treated separately. It is important to note that in the following Table, the meaning of 'to facilitate' is limited to the financial affordability of individuals as measures and strategies for physical, cultural and geographical affordability are already discussed in the distributive strategies as available, accessible and acceptable.

**Table 5.9: Mechanisms to Facilitate, Protect and Promote Right to Water to all**

| Component of Management Strategy | NWP 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| **Facilitate: Positive measures and strategies to enable people to fulfill right to water, discussion with reference to financial affordability** | **4.7 Time and cost overruns and deficient realization of benefits characterizing most irrigation projects should be overcome by upgrading the quality of project preparation and management. The under-funding of projects should be obviated by an optimal allocation of resources, having regard to the early completion of on-going projects as well as the need to reduce regional imbalances.**<br><br>**5.1 Structures and systems created through massive investments should be properly maintained in good health. Appropriate** | **11. Besides creating additional water resources facilities for various uses, adequate emphasis needs to be given to the physical and financial sustainability of existing facilities. There is, therefore, a need to ensure that the 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.** | **6.4 Project financing should be structured to incentivize efficient & economic use of water and facilitate early completion of ongoing projects.**<br><br>**7.4 The principle of differential pricing may be retained for the pre-emptive uses of water for drinking and sanitation; and high priority allocation for ensuring food security and supporting livelihood for the poor. Available water, after meeting the above needs, should increasingly be subjected to allocation and pricing on economic principles so that water is not wasted in unnecessary uses and could be utilized more gainfully.** |

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| | **annual provisions should be made for this purpose in the budgets.** | **The subsidy on water rates to the disadvantaged and poorer sections of the society should be well targeted and transparent.**<br><br>**22…. Therefore, allocation of funds under the water resources sector should be re-prioritised to ensure that the needs for development as well as operation and maintenance of the facilities are met.**<br><br>**23.1 Structures and systems created through massive investments should be properly maintained in good health. Appropriate annual provisions should be made for this purpose in the budget** | **7.5 Water Users Associations (WUAs) should be given statutory powers to collect and retain a portion of water charges, manage the volumetric quantum of water allotted to them and maintain the distribution system in their jurisdiction. WUAs should be given the freedom to fix rates subject to floor rates determined by WRAs**<br><br>**11.5 Urban water supply and sewage treatment schemes should be integrated and executed simultaneously. Water supply bills should include sewerage charges** |
| **Protect: against abuses of third** | **1.7 *Another important* aspect is water quality. Improvements in existing strategies and the innovation of new techniques resting on a strong science and technology base will be needed to eliminate the pollution of surface and ground water resources, to improve water quality and to step up the recycling and re- use of water. Science and** | **1.9 *Another important aspect is water quality*. Improvements in existing strategies, innovation of new techniques resting on a strong science and technology base are needed to eliminate the pollution of surface and ground water resources, to improve water quality. Science and technology and training have to play important** | **1.3 (*ix) Water quality and quantity* are interlinked and need to be managed in an integrated manner, consistent with broader environmental management approaches inter-alia including the use of economic incentives and penalties to reduce pollution and wastage**<br><br>**5.2 The availability of water is limited but the demand of water is increasing rapidly due** |

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| **parties, free from pollution and wastage, reuse and recycle and conservation of water** | **technology and training have also important roles to play in water resources development in general.**<br><br>**3.5 Recycling and re- use of water should be an integral part of water resource development** | **roles in water resources development and management in general.**<br><br>**3.2 Non-conventional methods for utilisation of water such as through inter-basin transfers, artificial recharge of ground water and desalination of brackish or sea water as well as traditional water conservation practices like rainwater harvesting, including roof-top rainwater harvesting, need to be practiced to further increase the utilisable water resources. Promotion of frontier research and development, in a focused manner, for these techniques is necessary.**<br><br>**14.1 Both surface water and ground water should be regularly monitored for quality. A phased programme should be undertaken for improvements in water quality**<br><br>**14.4 Principle of 'polluter pays' should be followed in management of polluted water.**<br><br>**14.5 Necessary legislation is to be** | **to growing population, rapid urbanization, rapid industrialization and economic development. Therefore, availability of water for utilization needs to be augmented to meet increasing demands of water. Direct use of rainfall, desalination and avoidance of inadvertent evapo-transpiration are the new additional strategies for augmenting utilizable water resources**<br><br>**5.4 Declining ground water levels in over-exploited areas need to be arrested by introducing improved technologies of water use, incentivizing efficient water use and encouraging community based management of aquifers. In addition, where necessary, artificial recharging projects should be undertaken so that extraction is less than the recharge. This would allow the aquifers to provide base flows to the surface system, and maintain ecology**<br><br>**5.6 Integrated Watershed development activities with groundwater perspectives need to be taken in a comprehensive manner to increase soil moisture, reduce sediment yield and increase overall land and water productivity. To the** |

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| | | **made for preservation of existing water bodies by preventing encroachment and deterioration of water quality**<br><br>**16.2 The resources should be conserved and the availability augmented by maximising retention, eliminating pollution and minimising losses. For this, measures like selective linings in the conveyance system, modernisation and rehabilitation of existing systems including tanks, recycling and re-use of treated effluents and adoption of traditional techniques like mulching or pitcher irrigation and new techniques like drip and sprinkler may be promoted, wherever feasible.** | **extent possible, existing programs like MGNREGA may be used by farmers to harvest rain water using farm ponds and other soil and water conservation measures.**<br><br>**6.3 Recycle and reuse of water, including return flows, should be the general norm**<br><br>**8.5 Sources of water and water bodies should not be allowed to get polluted. System of third party periodic inspection should be evolved and stringent punitive actions be taken against the persons responsible for pollution.**<br><br>**8.6 Quality conservation and improvements are even more important for ground waters, since cleaning up is very difficult. It needs to be ensured that industrial effluents, local cess pools, residues of fertilizers and chemicals, etc., do not reach the ground water**<br><br>**11.6 Industries in water short regions may be allowed to either withdraw only the make-up water or should have an obligation to return treated effluent to a specified standard back to the hydrologic system. Tendencies to unnecessarily use more water within the plant to avoid treatment or to pollute** |

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| | | | **ground water need to be prevented.**<br><br>**11.7 Subsidies and incentives should be implemented to encourage recovery of industrial pollutants and recycling / reuse, which are otherwise capital intensive.** |
| **Promotion: Raise awareness of right to water through information and education** | ***15. The efficiency* of utilisation in all the diverse uses of water should be improved and an awareness of water as a scarce resource should be fostered. Conservation consciousness should be promoted through education, regulation, incentives and disincentives.**<br><br>**20. A perspective plan for standardized training should be an integral part of water resource development. It should cover training in information systems, sector planning, project planning and formulation, project management, operation of projects and their physical structures and systems and the management of the water distribution systems. The training should extend to all the categories of personnel involved** | **1.*8 ….The drinking water needs of people* and livestock have also to be met. Domestic and industrial water needs have largely been concentrated in or near major cities. However, the demand in rural areas is expected to increase sharply …. As a result, water, which is already a scarce resource, will become even scarcer in future. This underscores the need for the utmost efficiency in water utilisation and a public awareness of the importance of its conservation.**<br><br>**16.1 Efficiency of utilisation in all the diverse uses of water should be optimised and an awareness of water as a scarce resource should be fostered. Conservation consciousness should be promoted through education,** | **3.1 *Water is required for domestic,* agricultural, hydro power, thermal power, navigation, recreation, etc. Utilisation in all these diverse uses of water should be optimized and an awareness of water as a scarce resource should be fostered.**<br><br>**3.6 Community should be sensitized and encouraged to adapt first to utilization of water as per local availability of waters, before providing water through long distance transfer. ..** |

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| | **in these activities as also the farmers** | **regulation, incentives and disincentives** | |

**Commentary on the Selected Sections of the Three Policies: An Analysis of the Table**

Table 5.9, while providing details on the various sections of the policies, concerning with the idea of '*to facilitate'*, shows that the three national water policies focus on the fiscal aspect of water management. The structures offered in this regard emphasise mainly three things, i.e. to draw benefits (NWP of 1987; 4.7), to prepare a budget (NWP of 1987; 5.1 and 2002; 23.1) and to incentivize efficiency (NWP of 2012; 6.4).

Table 5.9 denotes that the NWP of 1987 suggests drawing of benefits from irrigation projects (NWP of 4.7). To attain the desired benefits, the policy insists that the underfunding of the projects should be obviated by an optimal allocation of resources. To ensure effective results, the NWP of 1987 and 2002, both, focus on the creation of effective structures and systems and insist upon maintaining an annual budget (NWP of 1987; 5.1 and NWP of 2002; 22) and reallocating of funds to ensure the massive investments (NWP of 2002; 23.1). Table 5.9 presents that the NWP of 2002 gives special focus on financial sustainability of the existing water facilities. The policy, in this respect, insists that water charges for various uses should be fixed to cover at least the operation and maintenance charges of providing the services initially, and a part of the capital costs subsequently (11). The Table presents that the provisions of the NWP of 2012 are diverse and include important aspects of financial management of water resources. The policy emphasizes on efficient and economic use of water resources (6.4), and while so doing, it focuses on well-structured finance planning. To ensure high priority in water allocation and to control water wastage, the policy insists upon following the principle of differential pricing (7.4). The provisions of the policy have made the Water Users Association an important and key organization. The policy advocates the empowerment of this Association to collect and retain a portion of water charges and further allows it freedom to fix water rates (7.5). The policy

integrates urban water supply and sewerage and insists that water supply bills should include sewerage charges (11.5).

Table 5.9 further provides that the three national water policies advocate '*protection*' of water and consider water quality, water conservation, water reuse and recycling of water, as important parts of water management; and, to protect water resources, stresses for improvements in existing strategies (NWP of 1987; 1.7, NWP of 2002; 1.9 and NWP of 2012; 8.6).

The Table, while highlighting the provisions of NWP of 1987, presents that to improve water quality and to control water pollution, the policy focuses on the use of science and technology (1.7). The policy insists on protecting water resource by recycling and reusing water. For the policy, the process is important because it is an integral part of water resource development (3.5). The NWP of 2002 is indeed an improved version of NWP of 1987, which suggests the use of non- conventional methods for utilization of water and use of traditional methods of water conservation (3.2). To maintain water quality, the policy initially stresses on the use of science and technology and then focuses on other aspects that are essential to ensure quality of water (1.9). The policy while doing so, emphasises upon monitoring the ground and surface water (14.1) and adopting the principle of polluter pays (14.4). To preserve water resources, the policy realizes the need of legislation (14.5) and stresses adoption of measures like selective linings in the conveyance system and rehabilitation of existing systems including tanks, recycling and re-use of treated effluents (16.2). The NWP of 2012, while focusing on issues concerning water quality management, points that quality is actually linked with quantity and so needs to be managed in an integrated manner, with the use of environmental approaches (1.3 (ix)). To maintain the quality, the policy insists that sources of water and water bodies should not be allowed to pollute and the action of water pollution must be punished (8.5). The policy, to ensure quality conservation, insists upon introducing subsidies and incentives; thus presuming that doing so will encourage recovery of industrial pollutants, re-cycling and reuse of water resources (11.7) by returning flows, in general norm (6.3). Importantly, the policy, instead of overemphasizing the use of

science and technology, suggests that to meet future requirements, focus should be given on direct use of rainwater, desalination and avoidance of inadvertent evapo- transpiration (5.2). The policy suggests that farmers should harvest rainwater using farm ponds and other soil and water conservation measures (5.6). They must also make use of programs like MNREGA.

The sections drawn in Table 5.9, provide that the three policies emphasise '*promotion'* of awareness among the people and insist upon presenting water as a scarce resource (NWP of 1987; 15, NWP of 2002; 16.1 and NWP of 2012; 3.1).

The NWP of 1987 stresses on conservation consciousness and insists that the same should be promoted through education, regulation, incentives and disincentives. The policy gives importance to training and advocates that farmers should be involved in training processes (20). The NWP of 2002 explains that to meet the demands of water for various purposes there is a need for water conservation, about which people need to be made aware through, education, regulations, incentives and disincentives (1.8 and 16.1). The NWP of 2012 repeats the requirement of public awareness and suggests that the community should be sensitized about the problem of water scarcity (3.1) and be encouraged to adopt first utilization of water as per local availability of water (3.6).

**If the Management Strategies of National Water Policies Facilitate, Protect and Promote Water as a Right**

Chapter Three of the present study has described that to fulfill the obligations of right to water to all, governments have to facilitate, protect and promote water resources and water bodies. The chapter points that to ensure an individual's rights over water resources, the government who has a constant duty to fulfill the right, should take positive measures and introduce policy actions which enable people to use water as their right. At the policy level management, such positive measures should focus on two things. Firstly, the government's policy has to ensure that price of water use should be within the reach of commons and people should be made aware about their rights over

water resources[cccxxv]. The negative measures on the other hand urge that the government should protect water from pollution, wastage, and from abuse by a third party (mainly consequence of privatization).

This study, while examining India's three national water policies in the context of these inferences noted that while these policies suggest facilitation, protection and promotion of water resources, they do not clearly do so in the context of the idea of Right to Water. In fact, the facilitating measures with respect to financial accessibility are quite disappointing. The sections of NWP of 1987 explain the requirement of financial management with regard to budget and efficiency but do not suggest how financial accessibility of water will be ensured for the commons. The NWP of 2002 in comparison to the NWP of 1987 is better as it suggests fixing of water charges and stresses subsidization of the same for the poor and disadvantaged sections of society. However, the fundamental question remains as to how even a subsidy on a resource like water, which one has to use daily, will help a poor. The NWP of 2012 suggests ensuring of financial accessibility of individuals and insists upon following the principle of differential water pricing. However, the researcher thinks that the idea to retain water pricing for the pre-emptive uses of water is quite confusing as what is the meaning of the retention here is not clear.

The policies appear relatively clear on issues like protection of water resources as they all emphasize maintenance of the quality of water resources and suggest taking actions against water polluters. However, the researcher thinks that the principle of polluters should pay, can be conveniently misinterpreted as permission to pollute and pay. The policies have emphasized on the requirement of water conservation, reuse and also recycling, which indeed is a tool to preserve water for future generations.

Similarly, the policies suggest taking measures to promote awareness about water resources; however, the initiatives suggested are not right oriented. The purpose of the awareness programs proposed in the policies is to educate and train people, to conserve and use water wisely as it is a scarce resource. The

intention of such education is not to make people aware that to have water for drinking and domestic purposes is their claimable right. In the given situation, it remains doubtful if the purpose of public awareness will be achieved as the awareness does not speak of water as the basic right of the people. The researcher here thinks that the management strategies offered by the three water policies emphasize facilitation, protection and promotion of water resources. However, the same is not suggested with reference to right to water. Unfortunately, the three policies nowhere suggest facilitating, protecting and promoting water resources as a right of individuals.

### 5.4.4. Mechanisms to Ensure Efficiency with Absence of Monopoly, Discrimination and Exploitation

It is noted that in the concept of Right to Water, efficiency is realized to ensure equality of water uses and between different water users in the water management process, the term efficiency is being interpreted as absence of monopoly, discrimination and exploitation. Clearly, one more benchmark for an ideal water policy would be to suggest provisions to discourage monopoly, exploitation and discrimination and ensure efficiency in terms of equality. The following paragraphs, while testing this benchmark, explore if India's national water policies, while referring to management strategies, have ensured efficiency with absence of monopoly, discrimination and exploitation. The researcher thinks that since the aim here is to explore efficiency as absence of monopoly, discrimination and exploitation, it is appropriate to highlight different sections in a single table. However, as the meaning of each term is different the researcher chooses to highlight the sections differently and create a sub-table for the same.

**Table 5.10: Efficiency with Absence of Monopoly, Discrimination and Exploitation**

| Component of Management | NWP 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| | **1.6. ….The demand for water for Hydro & Thermal power** | **15.Economic development and activities including** | **1.3 (viii) Given the limits on enhancing the availability of** |

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| **Efficiency (saving water and use of water resources in context of maximum use without wastage, with appropriate priorities and water equality)** | **generation and for other industrial uses is also likely to increase substantially. As a result what which is already a scarcer in future. This underscores the need for the utmost efficiency in water utilisation and a public awareness of the importance of its conservation.**<br><br>**4.7 Time and cost overruns and deficient realization of benefits characterizing most irrigation projects should be overcome by upgrading the quality of project preparation and management. The under-funding of projects should be obviated by an optimal allocation of resources, having regard to the early completion of on-going projects as well as the need to reduce regional imbalances**<br><br>**14. Economic development and activities including agricultural, industrial and urban development, should be planned with due regard to the constraints imposed by the configuration of water availability. There should be a water zoning of the country and the economic activities should be guided and regulated in accordance with such zoning.** | **agricultural, industrial and urban development, should be planned with due regard to the constraints imposed by the configuration of water availability. There should be a water zoning of the country and the economic activities should be guided and regulated in accordance with such zoning.**<br><br>**16.1 Efficiency of utilisation in all the diverse uses of water should be optimised and an awareness of water as a scarce resource should be fostered. Conservation consciousness should be promoted through education, regulation, incentives and disincentives.**<br><br>**22. There is an urgent need of paradigm shift in the emphasis in the management of water resources sector. From the present emphasis on the creation and expansion of water resources infrastructures for diverse uses, there is now a need to give greater emphasis on the improvement of the performance of the existing water resources facilities. Therefore, allocation of funds under the water resources sector should be re-prioritised to ensure that the needs for** | **utilizable water resources and increased variability in supplies due to climate change, meeting the future needs will depend more on demand management, and hence, this needs to be given priority, especially through (a) evolving an agricultural system which economizes on water use and maximizes value from water, and (b) bringing in maximum efficiency in use of water and avoiding wastages.**<br><br>**4.3 The adaptation strategies could also include better demand management, particularly, through adoption of compatible agricultural strategies and cropping patterns and improved water application methods, such as land leveling and/or drip / sprinkler irrigation as they enhance the water use efficiency, as also, the capability for dealing with increased variability because of climate change. Similarly, industrial processes should be made more water efficient.**<br><br>**6.1 A system to evolve benchmarks for water uses for different purposes, i.e., water footprints, and water auditing should be developed to promote and incentivize efficient use of water.** |

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| | | **development as well as operation and maintenance of the facilities are met.** | **The 'project' and the 'basin' water use efficiencies need to be improved through continuous water balance and water accounting studies. An institutional arrangement for promotion, regulation and evolving mechanisms for efficient use of water at basin/sub-basin level will be established for this purpose at the national level.**<br><br>**5. Water saving in irrigation use is of paramount importance. Methods like aligning cropping pattern with natural resource endowments, micro irrigation (drip, sprinkler, etc.), automated irrigation operation, evaporation-transpiration reduction, etc., should be encouraged and incentivized. Recycling of canal seepage water through conjunctive ground water use may also be considered.**<br><br>**6.6 Use of very small local level irrigation through small bunds, field ponds, agricultural and engineering methods and practices for watershed development, etc, need to be encouraged. However, their externalities, both positive and negative, like reduction of sediments and** |

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| | | | **reduction of water availability, downstream, may be kept in view.**<br><br>**9.5 All components of water resources projects should be planned and executed in a pari-passu manner so that intended benefits start accruing immediately and there is no gap between potential created and potential utilized.**<br><br>**9.7 All water resources projects, including hydro power projects, should be planned to the extent feasible as multi-purpose projects with provision of storage to derive maximum benefit from available topology and water resources.** |
| **Measures to ensure absence of monopoly, exploitation and discrimination** | **7.*2 Exploitation of ground water* resources should be so regulated as not to exceed the recharging possibilities, as also to ensure social equity. Ground water recharge projects should be developed and implemented for augmenting the available supplies.**<br><br>**7.3 Integrated and coordinated development of surface water and ground water and their conjunctive use, should be envisaged right from the project** | **7.2 *Exploitation of ground water* resources should be so regulated as not to exceed the recharging possibilities, as also to ensure social equity. The detrimental environmental consequences of overexploitation of ground water need to be effectively prevented by the Central and State Governments. Ground water recharge projects should be developed and implemented for improving both the quality and** | **5..4 *Declining ground* water levels in over-exploited areas need to be arrested by introducing improved technologies of water use, incentivizing efficient water use and encouraging community based management of aquifers. In addition, where necessary, artificial recharging projects should be undertaken so that extraction is less than the recharge. This would allow the aquifers to provide base flows to the surface system, and maintain ecology.** |

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| | **planning stage and should form an essential part of the project.**<br><br>**7.4 Over exploitation of ground water should be avoided near the coast to prevent ingress of sea water into sweet water aquifers** | **availability of ground water resource.**<br><br>**21.1 The water sharing / distribution amongst the states should be guided by a national perspective with due regard to water resources availability and needs within the river basin. Necessary guidelines, including for water short states even outside the basin, need to be evolved for facilitating future agreements amongst the basin states.** | **8.2 Encroachments and diversion of water bodies (like rivers, lakes, tanks, ponds, etc.) and drainage channels (irrigated area as well as urban area drainage) must not be allowed, and wherever it has taken place, it should be restored to the extent feasible and maintained properly.** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.10 highlights the various sections of the national water policies that widely emphasize the requirement of efficiency in water management and narrowly arranges to ensure absence of monopoly, discrimination and exploitation in the same.

The table presents that all the three national water policies stress the requirement of efficiency in water utilization (NWP of 1987; 1.6 and NWP of 2002; 16.1) and insist avoid wastage (NWP of 2012; 1.3 (viii)).

According to the Table, the NWP of 1987 explains that there is an urgent requirement of efficiency in water planning and management as demand for water is expected to increase sharply in future (1.6). The policy emphasizes overcoming deficits in irrigation planning and suggests that underfunding of projects should be obviated by optimal allocation of water resources (4.7). The policy suggests that there should be zoning of water resources of the country and emphasises that economic activities should be guided and regulated accordingly (14). The NWP of 2002, like the NWP of 1987, advocates for the efficient use of water and stresses upon encouraging people‘s awareness through education (16.1). The policy suggests for water zoning of water

resources and while so suggesting, insists for planned economic development and activities including agriculture, industrial and urban development (15). The policy, to improve efficiency, emphasizes on the creation and expansion of water resources and places stress upon reprioritising the allocation of funds so that the needs for development as well as operation and management of the facilities can be met (22). The Table demonstrates that to maintain efficiency, the NWP of 2012 has multiple suggestions. The policy, while focusing on the problem of water stress, explains that water availability is limited and to meet future requirement of water there is a need to adopt compatible agriculture strategies (4.3). The policy emphasizes having water efficient irrigation systems and to develop efficiency, suggests the use of very small local level irrigation through small bunds, field ponds, agriculture and engineering methods (6.6). The policy, while considering the limitation of water resources, emphasizes on economizing of water uses, urges for efficient industrial processes (1.3 (viii)) and insists upon deriving maximum benefits from available topology and water resources (9.7). To increase efficiency in water use, the policy proposes to evolve a system of benchmark for water footprints and water auditing (6.1) and emphasizes on adopting methods as aligning cropping patterns with natural resources endowments, micro irrigation and evaporation transpiration (6.5). The policy further suggests that all components of water resources projects should be planned and executed in a pari-passu manner (9.5).

This study noted that in the three water policies, monopoly and discrimination, water management processes are viewed with reference of river basins and exploitation is discussed with reference of ground water, as table 5.10 denotes.

The Table highlights that the NWP of 1987 advocates integration and co-ordination for the development of surface and ground water (7.3) and stresses that overexploitation of ground water should be avoided, especially near to the coast (7.4). The policy suggests that ground water recharge project should be developed and implemented for augmenting the available supplies and while doing so must ensure social equity (7.2). The sections highlighted in the Table point that there is a suggestion to ensure absence of monopoly and

discrimination. The proposals of NWP of 2002 are more or less the same. The policy while suggesting prevention of exploitation of ground water, focuses on environmental consequences and insists that preventive measures should be taken at the central as well as at the state levels (7.2). The policy emphasizes on equal water sharing among states and suggests the creation of necessary guidelines for the same (21.1). The NWP of 2012 like the previous two water policies emphasizes on arresting over-exploitation and suggests undertaking of artificial recharging project (5.4). The policy proposes that encroachments, diversion of water bodies and drainage channels should not be allowed (8.2).

**If India's National Water Policies ensures Efficiency in Water Management with Absence of Monopoly, Discrimination and Exploitation**

The meaning of right to water, drawn in Chapter Three of the present study, has explained that a claim of individual rights over water resources creates a condition where efficiency is ensured and monopoly, discrimination and exploitation is prevented. The researcher thinks that since fulfillment of right to water is not possible until such conditions are attained, it is essential for a policy document to integrate the principle of efficiency and discourage discrimination and monopoly and exploitation.

The present study, with respect to this argument found that the three national water policies proposes measures to prevent exploitation of water resources and fulfils the idea of Right to Water. However, in the management process, the requirement to ensure absence of discrimination and monopoly and efficiency with respect to water equality, has been ignored. The researcher here argues that the claim of the national water policies that the purpose of water policies is to make water available to all is doubtful. This is because the proposed efficiency in water management process focuses on the maximum utilization and not maximum and equal water supply. This creates a doubt whether the referred priority orders will be followed in policy implementation. For instance, the NWP of 2012 proposes for multiple improvements to prevent water wastage and suggests efficient water use for irrigation and domestic purposes but at the same has not ensured that the water that is saved will be

supplied efficiently (in the purpose of equality) for domestic uses. The researcher thinks that since the policies emphasize efficiency without measuring for indicators like monopoly and discrimination, there is a doubt that water, in the name of efficiency, will be controlled by few (as in the water management processes, the policies encourages involvement of private sectors) and there will be discrimination in water supply. The threat is that only those who can pay will be entitled to have water. The situation can be grimmer as the policies are silent on the question on how monopolization of water resources and discrimination in water supply will be prevented. The researcher here is determined to remind that the idea of Right to Water has emerged as an argument against the maximum utilization and benefits as it leads to neoliberalism, the principles of which cannot ensure water equality as Chapter Three of the present study has argued. The researcher in the light of such realities argues that the efficiency of the institutions should not be limited to the maximum use of water resources. However, efficiency with respect to Right to Water should be seen as an absence of dominance, monopoly and discrimination. Notably, in the three national water policies, such an important factor is missing and so it is difficult to accept that India's national policies hold the value of right to water.

This study noted that in all the three policies, the exploitation of ground and surface water is considered as a serious problem and therefore strict measures are suggested to be undertaken to control it. The policies here sound in favor of right to water as they value the idea of preservation of ground and surface water. The suggestion made by NWP of 1987 and 2002 are important as they emphasize that while recharging water projects concerned with ground water development, social equity should be ensured.

### 5.4.5. Measures to Ensure Accountability, Transparency and People's Participation

Chapter Three of the present study has explained that the implementation of right to water requires for institutions that are accountable to the people and transparent in their functioning[cccxxvi]. The chapter has emphasized that in the

process of water management, involvement of people in planning and decision-making is a must. A policy measure offered by the Framework, in this respect insists that a policy document should establish institutions and mechanisms that are accountable and transparent in water planning and water management and are interested and capable of allowing people's participation in decision-making. The establishment of institutions like these is essential as functioning of these institutions obligates water supplier authorities (both public and private) to ensure easy accessibility of information and participation of the commons in decision-making.

The following paragraphs, in view of the significance of these three principles, analyze if India's national water policies ensure institutional accountability, transparency and people's participation with respect to right to water and whether these seek to establish relevant mechanisms and structures for the same. For doing so, the Table is divided into three parts and discusses if contents of the policies propose for accountable and transparent management system and advocate for people's participation in decision-making. Here, it is important to note that this section unlike previous discussion (distribution strategies), discusses people's participation as a part of management strategies.

**Table 5. 11: Measures to ensure Accountability, Transparency, and People's Participation**

| Component of Management | NWP 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| | **6. There should be proper organizational arrangements at the national and state levels for ensuring the safety of storage dams and other** | **24. There should be proper organisational arrangements at the national and state levels for ensuring the safety of storage dams and other water-related structures consisting of specialists in** | **6.2 The project appraisal and environment impact assessment for water uses, particularly for industrial projects, should, inter-alia, include the analysis of the water footprints for the use**<br><br>**12.3 …For improved service delivery on sustainable basis, the State Governments / urban local bodies may associate private sector in public private partnership mode** |

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|---|---|---|---|
| **Accountability**<br><br>**to establish security systems** | **water-related structures. The central guidelines on the subject should be kept under constant review and periodically updated and reformulated ….** | **investigation, design, construction, hydrology, geology, etc. A dam safety legislation may be enacted to ensure proper inspection, maintenance and surveillance of existing dams and also to ensure proper planning, investigation, design and construction for safety of new dams. The Guidelines on the subject should be periodically updated and reformulated. There should be a system of continuous surveillance and regular visits by experts.** | **with penalties for failure, under regulatory control on prices charged and service standards with full accountability to democratically elected local bodies.**<br><br>**12.5 Appropriate institutional arrangements for each river basin should be developed to collect and collate all data on regular basis with regard to rainfall, river flows, area irrigated by crops and by source, utilizations for various uses by both surface and ground water and to publish water accounts on ten daily bases every year for each river basin with appropriate water budgets and water accounts based on the hydrologic balances. In addition, water budgeting and water accounting should be carried out for each aquifer.** |
| **Transparency i.e. sharing information with the people** | **2. *The prime requisite for resource planning* is a well-developed information system. A standardized national information system should be established with a network of data banks and data bases, integrating and strengthening** | **2.1 *A well-developed information system*, for water related data in its entirety, at the national / state level, is a prime requisite for resource planning. A standardised national information system should be established with a network of data banks and data bases, integrating and strengthening the existing Central and State level agencies and improving the quality of data and the processing** | **1.3. (*iii) Good governance through transparent informed* decision making is crucial to the objectives of equity, social justice and sustainability. Meaningful intensive participation, transparency and accountability should guide decision making and regulation of water resources**<br><br>**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.**<br><br>**12.5 Appropriate institutional arrangements for each river basin should be developed to collect and collate all data on regular basis with regard to rainfall, river flows, area irrigated by crops and by source, utilizations for various uses by both** |

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|---|---|---|---|
| | **the existing Central and State level agencies and improving the quality of data and the processing capabilities. There should be free exchange of data among the various agencies and duplication in data collection should be avoided. Apart from the data regarding water availability and actual water use, the system should also include comprehensive and reasonably reliable projections of future demands for water for diverse purposes.** | **capabilities**<br><br>**2.2 Standards for coding, classification, processing of data and methods / procedures for its collection should be adopted. Advances in information technology must be introduced to create a modern information system promoting free exchange of data among various agencies. Special efforts should be made to develop and continuously upgrade technological capability to collect, process and disseminate reliable data in the desired time frame** | **surface and ground water and to publish water accounts on ten daily basis every year for each river basin with appropriate water budgets and water accounts based on the hydrologic balances. In addition, water budgeting and water accounting should be carried out for each aquifers** |
| **People's participation** | **12. *Efforts should be made to* involve farmers progressively in various aspects of management of irrigation systems, particularly in water distribution and collection of water rates. Assistance of** | **6.*8The involvement and participation of beneficiaries* and other stakeholders should be encouraged right from the project planning stage its**<br><br>**12. Management of the water resources for diverse uses should incorporate a participatory approach; by involving not only** | **1.3(*iii) Good governance through transparent informed decision making is crucial to* the objectives of equity, social justice and sustainability. Meaningful intensive participation, transparency and accountability should guide decision making and regulation of water resources.**<br><br>**3.6….. Community based water management should be institutionalized and strengthened.**<br><br>**5.3 There is a need to map the aquifers to know the quantum and quality of ground water resources (replenishabe as well as non-** |

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| **through dialogue in water planning, feedback, complains and redress** | **voluntary agencies should be enlisted in educating the farmers in efficient water use and water management.** | **the various governmental agencies but also the users and other stakeholders, in an effective and decisive manner, in various aspects of planning, design, development and management of the water resources schemes. Necessary legal and institutional changes should be made at various levels for the purpose, duly ensuring appropriate role for women. Water Users' Associations and the local bodies such as municipalities and *gram panchayats* should particularly be involved in the operation, maintenance and management of water infrastructures / facilities at appropriate levels progressively, with a view to eventually transfer the management of such facilities to the user groups / local bodies.**<br><br>**13. Private sector participation should be encouraged in planning, development and management of water resources projects for diverse uses, wherever feasible.** | **replenishable) in the country. This process should be fully participatory involving local communities. This may be periodically updated.**<br><br>**8.1 Conservation of rivers, river corridors, water bodies and infrastructure should be undertaken in a scientifically planned manner through community participation.**<br><br>**9.6 Local governing bodies like Panchayats, Municipalities, Corporations, etc., and Water Users Associations, wherever applicable, should be involved in planning of the projects. The unique needs and aspirations of the Scheduled Caste and Scheduled Tribes, women and other weaker sections of the society should be given due consideration.**<br><br>**10.6…. Communities need to be involved in preparing an action plan for dealing with the flood/ drought situations.**<br><br>**12.3 Water resources projects and services should be managed with community participation. For improved service delivery on sustainable basis, the State Governments / urban and local bodies may associate the private sector in public private partnership mode with penalties for failure, ….** |

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| | | **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.**<br><br>**23.3 Formation of Water Users' Association with authority and responsibility should be encouraged to facilitate the management including maintenance of irrigation system in a time bound manner.** | |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.11 demonstrates that in the three national water policies, accountability is explained in a limited and narrow sense. The discussions in this regard are referred to in the context of safety of dam and project reviewing and assessment of water uses (NWP of 1987; 6, NWP of 2002; 24 and NWP of 2012; 6.2).

The Table provides that the NWP of 1987 stresses on having organizational structures at the national as well as the state level, the purpose of which is to

ensure the safety of storage dams and other water related structures (6). The NWP of 2002 repeats the idea and while doing so, suggests the enactment of a dam safety legislation and advocates ensuring proper inspection, maintenance and surveillance of existing dams (24). The NWP of 2012 has expanded the idea of accountability with reference to assessment and reviews. The policy, while suggesting these, insists on project appraisal and environmental impact assessment for water uses (6.2). The policy emphasises upon improving service delivery on a sustainable basis. To attain the objectives, the policy suggests public private partnership and insists on penalties for failure in delivering adequate water service. The policy clarifies that water suppliers are fully accountable to democratically elected local bodies (12.3). The policy further suggests ensuring of appropriate institutional arrangements to collect and collate all data on a regular basis and preparing a water budget and water accounts on the hydrologic balances (12.5).

The Table draws that in all the three national water policies, transparency in water resource management is proposed with reference to information systems (NWP of 1987; 2, NWP of 2002; 2.1 and NWP of 2012; 1.3 (iii)).

The Table 5.11 shows that the NWP of 1987 emphasises that water availability data should be exchanged between different parties and duplication in this regard must be avoided (2). The policy, while focusing on water availability data, insists that the future demands for water for diverse purposes should be well projected by the systems (2). Importantly, to achieve the goals, the policy proposes a standardised national information system with a network of quality data banks and databases (2). The NWP of 2002, like the NWP of 1987, stresses on the establishment of quality data banks (2.1) and while so suggesting, emphasizes upon adopting standards for coding, classification and processing of data and method for data collection (2.2). The policy advocates for the advancement of information technology and focuses on promotion of free exchange of data among various agencies (2.2). Significantly, the NWP of 2012 links transparency with good government and insists upon sharing information related to policy decisions. The policy explains that decision-making is an important process, for attaining equity,

social justice and sustainability and therefore it should be guided by intensive participation, transparency and accountability (1.3 (iii)). To maintain transparency in urban water management, the policy suggests that the urban domestic water systems should collect public water accounts and water audit reports with a purpose to reduce leakages and pilferages in due consideration of social issues (11.3). Like the NWP of 1987 and 2002, the policy emphasizes the development of database of rainfall, river flows, and area irrigation by crops and by water source (12.5).

The Table while drawing on the sections concerning people's participation, denotes that the national policies value people's participation and encourage participation of various communities, right from the planning stage (NWP of 1987;12, NWP of 2002; 6.8, and NWP of 2012; 5.3).

The Table presents that the NWP of 1987, emphasizes the involvement of farmers in various aspects of management and insists upon educating them for the same (12). The NWP of 2002 emphasizes on making institutional changes to ensure the role of women, Water User's Associations and local bodies as municipalities and gram panchayats in decision making (12 and 23). According to the policy, involvement of the private sector in planning, development and management of water resources should be encouraged to develop innovative ideas, generate finance and improve service efficiency and accountability among water users (13). The Table signifies that the NWP of 2002, in regard to participatory measures, is exceptionally extensive as it advocates adoption of participatory approach in water planning (12). The Table explains that the NWP of 2012, like the NWP of 2002 recommends for a participatory approach, in water planning and water management and explains meaningful participation as an element of good governance (1.3 (iii)). The policy, while recommending for people's participation, insists on the mapping of the aquifers (to know the quantum and quality of ground water) (5.3) and conservation of rivers, rivers corridors (8.1). The policy proposes that the protection of all areas prone to floods and droughts should undertake thorough participation of local communities (10.6). The policy repetitively emphasizes that local bodies like municipalities, panchayats, Water Users

Association and corporates should be involved in project planning and project services (9.6 and 12.3). Clearly, according to Table11, for the policy, the meaning of participation is wide. It entitles governmental agencies, water users and other stakeholders to take part in decision making and comment on each aspect of management including planning, design and development of water resources.

## If India's National Water Policies Value Accountability, Transparency and People's Participation with respect to Right to Water

**C**hapter Three of the present study has explained that entitlement of right to water requires institutions that are by nature accountable, transparent and accessible to people. The requirement of such institutions is global, as their establishment underpins the relationship between right holders and duty bearers and enables individuals and communities to understand who right holders are and what are their rights with regard to water uses (Danish Institute, 2014).

The researcher while analysing the national water policies found that in the national water policies, accountability is explained in a narrow sense. The policies discuss the idea merely in the context of dam and environmental safety, project review and assessment of water uses. Since accountability of institutions is not defined with reference to right to water, the relationship between water suppliers as duty bearers and water users as right holders is difficult to identify. This is because the required accountability is defined in a confused manner. For instance, the NWP of 2012 while drawing attention to the requirement for improving delivery services, insists that water supplier parties should be accountable; however, accountability of water supplier parties surprisingly is not towards the people to whom water is being supplied, but it is towards the democratically elected people. The researcher thinks that since the policy encourages public-private partnership in water management, the accountability towards democratically elected people will lead to corruption. There is a strong possibility that the elected people will not impose penalties for the failure of meeting accountability because as per the

provisions of public-private partnership, they themselves could be the water suppliers and therefore an interested party.

The comments on Table 5.11 pinpoint that the three water policies endorse the requirement of transparency in water resource management; however, it is difficult to state if the same is integrated in the context of the idea of Right to Water. The doubt of the researcher has developed against the background of the various sections of the policies, which insist upon establishing the national information system with a network of quality data banks and databases. The proposals to adopt standards for coding, classification, processing of data and method and promotion of free exchange of data are incomplete because data sharing is limited to various agencies. The policies do not mention if the data will be accessible to the people and how. It appears that the policies while emphasizing the transfer of water banking data, focuses merely on the requirements of various agencies and ignores the fact that openness of accessibility of information is necessary at the individual level as well. The policies agree upon free sharing of information on water, however, they are silent on the question of an individual's accessibility to information. This sends a message that transparency can be claimed by agencies that are public or private water suppliers and not by individuals to whom water is actually supplied.

Similar to the issue of transparency, the policies also speak of ensuring people's participation, as the above discussion mentions. The policies emphasize the participatory approach of water resource management, which indeed is a positive step towards Right to Water. The Table denotes that the three national water policies implicitly offer a list of expected participants and denote who are entitled to participate in the decision-making processes. The participation implicitly entitles individuals to be a part of the decision-making process. Here, individual participation includes participation by farmers (NWP of 1987) and women (NWP of 2002), institutional participation includes Water Users Association (NWP of 1987, 2002 and 2012) and government participation comprises participation by the local government bodies as municipalities and panchayats (NWP of 2002 and 2012). The researcher here

argues that the suggestions to ensure participation fulfill the idea of Right to Water only to a limited extent. For emphasizing on people's participation the policies entitle different communities to be part of the decision-making process. However, it ignores the Schedule Tribes and Schedule Castes. It is quite surprising that while the Schedule Tribes and Schedule Castes as 'community' are identified as beneficiaries of right to water, they are not included in the decision making process and their presence is not identified, separately. The researcher thinks that the intention of the policies to involve people in decision-making is limited as people's participation is encouraged only with reference to mega projects. It should be noted that people's interest in big projects is often not remaining constant as their processes are time consuming and the results are felt very late. In the given arrangements, it is difficult to say if the value of people's participation, which is a basic element of Right to Water, is integrated into India's national water policies.

### 5.4.6. Measures to ensure Sustainability of Water Resources (for Future Use and Protection of the Environment)

Without sustaining water resources, there is no meaning of assurance of right to water, as Chapter Three of the present study has argued. The Framework, while offering measures for the present analysis in this reference, emphasises that management strategies of an ideal water policy should ensure right to water as a sustainable right and preserve water resources for future generations. This implies that to preserve right to water as a permanent right, management strategies while ensuring equal water supplies to the present generation, should also endeavour to preserve the water resources for future generations as well. Since the absence of sustainability measures questions the permanence of right to water, it is essential to investigate if India's national water policies have offered measures to sustain water resources. This section therefore analyses India's national water policies and explores if the three policies advocate for sustainability and propose to preserve the environment as well.

**Table 5. 12: Sustainability (for future use and protection of environment)**

| Component of Management | NWP 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| Sustainability (for future and protection of environment) | 4.3 In the planning, implementation and operation of projects, the preservation of the quality of environment and the ecological balance should be a primary consideration. The adverse impact, if any, on the environment should be minimised and should be off-set by adequate compensatory measures. | 1.4 Water is a scarce and precious national resource to be planned, developed, conserved and managed as such, and on an integrated and environmentally sound basis, keeping in view the socio-economic aspects and needs of the States. It is one of the most crucial elements in developmental planning. As the country has entered the 21st century, efforts to develop, conserve, utilize and manage this important resource in a sustainable manner, have to be guided by the national perspective.<br><br>1.6 Planning and implementation of water resources projects involve a number of socio-economic aspects and issues such as environmental sustainability….<br><br>3.3 Water resources development and management will have to be planned for a hydrological unit such as drainage basin as a whole or for a sub-basin, multi-sectorally, taking into account surface and ground water for sustainable use, incorporating quantity and quality aspects as well as environmental considerations. All individual developmental projects and proposals should be formulated and considered within the Framework of such an overall plan keeping in view the existing agreements / awards for a basin or a sub-basin so that the best possible combination of options can be selected and sustained.<br><br>6.3 In the planning, | 1.3.(x) The impact of climate change on water resources availability must be factored into water management related decisions. Water using activities need to be regulated keeping in mind the local geo climatic and hydrological situation<br><br>3.3 Ecological needs of the river should be determined, through scientific study, recognizing that the natural river flows are characterized by low or no flows, small floods (freshets), large floods, etc., and should accommodate developmental needs. A portion of river flows should be kept aside to meet ecological needs ensuring that the low and high flow releases are proportional to the natural flow regime, including base flow contribution in the low flow season through regulated ground water use.<br><br>9.2 Being inter-disciplinary in nature, water resources projects should be planned |

| | | | |
|---|---|---|---|
| | | **implementation and operation of a project, the preservation of the quality of environment and the ecological balance should be a primary consideration. The adverse impact on the environment, if any, should be minimised and should be offset by adequate compensatory measures. The project should, nevertheless, be sustainable.**<br><br>**18.2 Each coastal State should prepare a comprehensive coastal land management plan, keeping in view the environmental and ecological impacts, and regulate the developmental activities accordingly.** | **considering social and environmental aspects also in addition to techno-economic considerations in consultation with project affected and beneficiary families. The integrated water resources management with emphasis on finding reasonable and generally acceptable solutions for most of the stakeholders should be followed for planning and management of water resources project.** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.12 shows that preservation and sustainability of environment and water resources is the priority of India's national water policies (NWP of 1987; 4.3 NWP of 2002; 1.4, 3.3, 6.3 and NWP of 2012; 9.2).

The Table infers that the NWP of 1987 while focusing on preservation of the quality of environment, suggests that ecological balances should be maintained in the planning and implementation of projects (4.3). The NWP of 2002 has added into the suggestion and insists that water as a scarce and precious resource should be planned, developed and conserved in a sustainable manner (1.4). To ensure sustainability of water, the policy emphasizes that plans for water resources development should have environmental considerations (3.3) and while doing so the preservation of quality and sustainability of environment should be focused upon (1.6). The policy proposes that to minimize the adverse impact on the environment, new and effective measures should be adopted compulsorily (6.3). The policy in this reference, suggests that each coastal state should prepare a comprehensive coastal land management programme (18.2). The Table provides that the NWP of 2012, like the NWP of 2002 insists that decisions related to water

resource planning and implementation should determine environmental aspects (9.2) and focus on climate change (1.3 (x)) and ecological needs of the rivers (3.3). The policy suggests that while addressing the development requirements, a portion of river flow should be kept aside to meet ecological needs to ensure that the low and high flow releases are proportional to the natural flow regime (3.3).

**If the Management Strategies offered in India's National Water Policies have Provisioned to ensure Sustainability of Water Resources and Prevent Environment damages, with Reference of Right to Water**

The comments on the sections of the three water policies presented in the Table, 5.12 provide that India's national water policies have constantly focused on the sustainability of water resources and most importantly, have suggested viewing water use activities in local geo climatic situations (NWP of 2012). Since sustainability of water resources and assertion on environmental protection are the core aspects of the idea of Right to Water, one may believe that the India's national water policies are inclined towards the idea. However, this study while examining the policies in the context of the idea of Right to Water, noted that the measures to maintain sustainability have not clearly preferred to ensure rights of individuals over water resources. In fact, the policies insist on managing the developmental requirements, as noted in the NWP of 2002. Moreover, the researcher thinks that the realisation of water as a scarce resource and suggestion for effective planning with environmental considerations is incomplete. This is because the policies do not propose how so will be proposed in favor of rights of individuals over water resources. The policies are silent on the question if the arrangements to sustain water resources will ensure right to water to all. The researcher thinks that the suggestions offered by the three national water policies are relevant and are ideal for water management but are thin in context of the idea of Right to Water. In the given situation, it is difficult to state that the provisions of India's national water policies would sustain water resources to ensure water

as a right of individuals and entitle them to have and use water as their claimable right.

### 5.4.7. Monitoring System (s) and Institution (s) (Review and Assessment)

Monitoring is an important component of management. In the Framework, the meaning and significance of monitoring are argued in the context of the idea of Right to Water. The Framework, while offering benchmarks for water management, insists that the state has to establish mechanisms and institutions that are capable of independent monitoring. The researcher thinks that the requirement and role of monitoring institutions with regards to right to water is inarguable as it helps to check if institutions who are obligated to supply and maintain water resources are working as per the objectives of the policy or not. The Framework, used for the present analysis, re-emphasizes the argument and while showing monitoring as an important principle of water policies, insists that without adequate monitoring authorities, entitlement of rights of individuals and communities over water resource cannot be assured. Clearly, the significance of monitoring is unquestionable. With this in view, the following section makes a complete analysis of India's national water policies in the context of Right to Water and explores if India's national water policies propose to have monitoring systems.

**Table 5. 13: Monitoring Systems (Review and Assessment)**

| Component of Management | NPW 1987 | NWP 2002 | NWP 2012 |
|---|---|---|---|
| Monitoring | **6…. The Central guidelines on the subject should be kept under constant review and periodically updated and reformulated. There should be a system of continuous surveillance and** | **7.1 There should be a periodical reassessment of the ground water potential on a scientific basis, taking into consideration the quality of the water available and economic viability of its** | **5.1 The availability of water resources and its use by various sectors in various basin and States in the country need to be assessed scientifically and reviewed at periodic intervals, say, every five years. The trends in water availability due to various factors including climate change must be assessed and accounted for during water resources planning.** |

| | | | |
|---|---|---|---|
| **systems**<br><br>**(Review and Assessment)** | **regular visits by experts.**<br><br>**7.1 There should be a periodical reassessment on a scientific basis of the ground water potential, taking into consideration the quality of the water available and economic viability.**<br><br>**13. Both surface water and ground water should be regularly monitored for quality. A phased programme should be undertaken for improvements in water qualiy.** | **extraction**<br><br>**14.1 Both surface water and ground water should be regularly monitored for quality. A phased programme should be undertaken for improvements in water quality.**<br><br>**24. A dam safety legislation may be enacted to ensure proper inspection, maintenance and surveillance of existing dams and also to ensure proper planning, investigation, design and construction for safety of new dams. The Guidelines on the subject should be periodically updated and reformulated. There should be a system of continuous surveillance and regular visits by experts.** | **6.7 There should be concurrent mechanism involving users for monitoring if the water use pattern is causing problems like unacceptable depletion or building up of ground waters, salinity, alkalinity or similar quality problems, etc., with a view to planning appropriate interventions**<br><br>**9.4 Concurrent monitoring at project, State and the Central level should be undertaken for timely interventions to avoid time and cost over-runs.**<br><br>**11.4…. Implementation of rainwater harvesting should include scientific monitoring of parameters like hydrogeology, groundwater contamination, pollution and spring discharges.**<br><br>**12.6 Appropriate institutional arrangements for each river basin should also be developed for monitoring water quality in both surface and ground waters.** |

## Commentary on the Selected Sections of the Three Policies: An Analysis of the Table

Table 5.13 presents that in the three national water policies, there is emphasis on monitoring and periodic reassessment of the management of water resources (NWP of 1987 and NWP; 7.1 and NWP; 5.1).

The Table highlights that in the NWP of 1987, monitoring and reassessment of management processes are encouraged for maintaining the quality of water available (7.1 and 13) as well as to measure economic viability (7.1). The policy, advocates for constant review and periodical updating and reformation.

To attain the objective of monitoring, the policy purposes to have central guidelines and suggests for establishing a system of continuous surveillance and regular visits by experts (6). The NWP of 2002 is majorly a repetition of the NWP of 1987 (7.1 and 14.1). While repeating the provisions of NWP of 1987, the policy emphasises on monitoring in the form of continuous surveillance and regular visits by experts.for dam safety (24). The NWP of 2012, like the NWP of 1987 and 2002 explains that there is a need for scientific assessment and periodic reviews of water projects (5.1), particularly for the implementation of rainwater harvesting (11.4). To fulfill the purpose of scientific reviews, the policy suggests the establishment of appropriate institutions at each river basin (12.6). For the policy, monitoring is a federal activity and hence it proposes that monitoring should be undertaken at the central as well as the state level (9.4).

**If the Monitoring Measures referred to in India's National Water Policies Intend to Ensure Right to Water**

The researcher, while exploring monitoring aspects of India's national water policies, found that the management strategies referred to in India's national water policies propose to establish monitoring systems. The suggestions in the policies in this respect are important as they allow for and insist upon scientific reviews, which indeed is the requirement of time. However, findings in the context of Right to Water are disappointing. The researcher thinks that the monitoring with reference to Right to Water has altogether a different expectation from the policy documents and from management strategies. The concept denotes that monitoring should not be a dominating activity of the State but participatory and transparent in its process. Unfortunately, these two features i.e., participation and transparency in the monitoring processes, are not found in India's national water policies. The problems with regard to the monitoring structures are many. For instance, in the contents of the three policies, the purpose of monitoring is to ensure dam safety and preservation of ground water resources. None of the policies encourage monitoring to ensure equal water supply. Further, the importance of monitoring for industrial uses

of water is ignored, as none of the policies check if reuse/recycling of water and water conservation is ensured at the industrial level.

The researcher believes that in the three policies the independency and effective honesty of the monitoring mechanisms to ensure right to water is in suspense. As the policies, while advocating for establishment of the monitoring mechanisms; have not proposed for the independent status of monitoring mechanisms. Similarly, the policies, while proposing for the assessment of water projects have not defined who could be considered as experts and who shall be allowed to make assessment. Since the policies have not suggested the standards to standardise the monitoring process, it is certain that the pattern and process of monitoring will be defined as per the convenience of the mechanisms obligated for monitoring, which indeed cannot be a favorable condition for the entitlement of right to water. The researcher here argues that since the monitoring systems referred to in the three policies have nothing to do with assurance to equal water supply, it is appropriate to say that India's water policies, while providing for a monitoring process, actually do not fulfill the criteria of the idea of Right to Water.

### 5.5. Entitlement of Right to Water through Union Water Policies of India: A Discussion

The researcher, with reference to the discussions mentioned above, believes that the entitlement of Right to Water through the union water policies in India is doubtful. The discussions above present that India's national water policies are increasingly, driven by populist politics (Das and Swain, 2016), where distribution strategies do not match management strategies. With regard to the process of water allocation and water management, the policies propose multiple things but without the required clarity. The researcher argues that there is evident in the contents of the policies, the politics to keep things. The researcher believes that it is not that the policies are not idealistic enough. The real problem is that they are not determined to achieve right to water and so are not effective enough to entitle water to all. The researcher here argues that there are multiple examples that endorse this argument; most of them are commonly noted in all the three national water policies. For instance,

(1) The policies offer the priority orders but instead of maintaining the order, follow a changeable approach.

(2) The policies (NWP of 2002 and 2012) place stress on the principle of social justice and equity but to maintain the same, insist upon adopting the public private partnership model, where the private sector is the real authority and is entitled to supply water and manage and maintain water resources.

(3) While proposing water sufficiency to urban and rural people, the term 'sufficient' is not defined.

(4) The policies insist on maintaining minimum flow of water resources for social consideration, however, the standard of minimum flow of water and what social consideration stands for, is quite undecided.

(5) The policies give priority to use of water for irrigation and agricultural purposes, but whether this separates the use of water for substantive life and business, is not clear.

(6) The policies call for people's awareness, especially for the farmers. However, the purpose of their training in this respect is to make aware them about the problem of water scarcity. However, the policy does not propose to inform them about their rights over water resources.

(7) On one hand the policies insist on protecting water from pollution and wastage while on the other hand, they propose that the polluter can be set free if s/he pays for the same.

(8) The monitoring measures work to ensure efficiency in water uses, however; their duty is not to check if the management processes entitle people to use water as their right and if water resources reach every individual and household, adequately.

(9) In the policies, the failures of public and private sectors in water supplies are subjected to penalty, but what failure exactly means is not defined.

(10) The policies emphasise on people's participation but forget to provide a platform for the same.

The researcher noted that the objectives of the policies focus more on the management of water resources and give less attention on how water will be allocated to different parties. Unfortunately, the policies only stress on the problem of water scarcity and do not offer any solution in favor of water

equality. The policies have ignored the fact that vulnerability to access water is rapidly increasing in India and requires to be addressed with immediate effect. The failure of the policies with respect to Right to Water has encouraged divisions in India between the water haves and water have-nots. The policies while emphasizing on water availability do not offer any solution on how the problems of the water have-nots will be removed.

The policies conveniently avoid the issue of how discrimination in water supply will be tackled, and how it will be avoided in water management. The researcher thinks that the suggestions given by the policies with regard to use of water as per the priority of human requirement too are not well thought out. This is because the policies together have considered water as a source of development and growth and so have distributed and managed water resources in favor of irrigation and industry. The priority list made available in the three national water policies give priority to drinking water but the same has not been strategized in management planning. According to the researcher, the tendency to overlook such important aspects of water allocation and water management pose serious threat to individual rights over water resource because water cannot be enjoyed with freedom if there is no assurance of equality or non-discrimination. This study noted that the idea of distribution of water with freedom and equality is not referred to in the sense of individual rights and the explanations that are given in the context of the Indian states are not in the context of right to water. The three national policies have adopted a need-based approach and hence individual entitlement of right to water is missing from their content. The researcher thinks that since the objectives of the policies are not to entitle individuals and communities to have water as their right, it is difficult to state if India's national water policies embrace the major elements of Right to Water and ensure water to all.

## 6. Summary

This Chapter has studied and analysed India's national water policies in the context of the idea of Right to Water, which is the core objective of the present research. To present an analysis in the context of Right to Water, the chapter

has introduced a framework, called Water Policy Analysis Guiding Framework that holds the guiding benchmarks on which the analysis of the present chapter is based. The chapter argues that distribution and management strategies are the decisive elements of a policy document, which form the nature and objective of a policy. With this view, the chapter has studied distributive and management strategies referred to in India's national water policies and while so doing presents commentary on the various sections of the policies. The chapter explains the goals, patterns and strategies for water distribution and management and argues that none of the national water policies has any serious measures to ensure water as an individual right. According to the chapter, in India's national water policies, water is presently measured as a need and not as a right.

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# END NOTES

[cccciv] This argument is argued by the researcher in the reference of the studies done by different scholars like H. Lasswell (1959) and Ramawamy Iyer (2001).

[cccv] Importantly, India's national policies are short, NWP of 1987 has 21 sections, NWP of 2002 has 27 and NWP of 2012 has 16 sections, each of which is divided in subsections.

[cccvi] It is important to note that in the chapter, management is not being considered as a system. However, management strategies are discussed as activities.

[cccvii] Notably, the principles are also developed in the form of AAAQ framework that defines some important aspects of the right to water, commonly useful for the critical analysis of water policies. The AAAQ framework is linked with the United Nations. In November 2002, the CESCR issued *General Comment 15 on the Right to Water*, which establishes the foundation of the AAAQ Framework by setting out obligations for the Availability, Accessibility, Acceptability and Quality of water. Since February 2013, the CESCR has been mandated to take individual complaints on violations of the ICESCR in the countries that have ratified the *Optional Protocol to the ICESCR*.

[cccviii] The researcher accepts that there can be many principles besides these four, however, the present study limits itself to those principles that directly/indirectly respond to the research questions of the present study.

[cccix] Here, meaning of "proper" is extensive, details of which are discussed in the fourth section, of this chapter.

[cccx] To avoid the repetition, details of the principles are not given here as they are already discussed in the chapter Three of the present study.

[cccxi] A document released by World Health Organization (2002) suggests that if the source of water is outside the home then it should be within one kilometer or 30 minutes' total collection time. Document released by the Danish institute, however, has a different understanding on the same. The document called as AAAQ framework states that the idea of reasonable distance is linked with time of water collection as well and according to the document, it should be 5 minutes' maximum, including waiting time.

[cccxii] The meaning of availability, accessibility, acceptability and affordability is offered in General Comments 4,12,13,14 and 15 to the ICESCR.

[cccxiii] See discussions on normative emergence of the content of Right to Water with special reference to Comment 15, mentioned in Chapter Three of the present study.

[cccxiv] Chapter Three of the present study states that the absolute minimum availability of water is supposed to be 20 litres of water per person per day.

[cccxv] Chapter Three of the present study explained that the pattern of water allocation is comprehensive in that to obligates the union, state, and local governments to fulfill basic water requirements, when a group or individual is unable to access water. A promise of fulfillment ensures a quality access to household or on plot. Since all the three levels of

governance i.e. union, state and local governments have obligation to allocate water resources equally, it is indeed essential that each unit must have at its disposal sufficient resources to maintain and extend the necessary water sources and facilities.

[cccxvi] Here, third party points to water markets. The idea reflects that in case of existence of water markets it is essential to control water charges. The government, in such situation, should generate controlling and monitoring measures that can ensure physical and financial accessibility of water by the poor and the disadvantaged.

[cccxvii] The researcher is aware that the obligations of governments are even wider, like they have to establish transparent administrative and legal institutions, mechanisms and rules; allocate adequate financial, human and technical resources to implement, establish monitoring systems for state and non-state actors; and establish dialogue, feedback, complains and redress mechanisms. However, here the researcher has discussed only those sections which concern with distributive strategies. The other duties as mentioned above are discussed in reference to management strategies.

[cccxviii] Local government as obligated party is added in NWP 2012.

[cccxix] For agricultural and industrial purposes, here other than substance for life.

[cccxx] A document released by the World Health Organization (called Right to Water, 2002) adds in the list of obligators and identifies research community as duty bearers.

[cccxxi] Details of this argument are given in the further section i.e. in 5.4 (V).

[cccxxii] It is important to note that people' participation is discussed in the context of measures of management mechanisms as directions are not given to citizens or civil society to take part in policy making but measures are suggested to ensure participation. Thus, the obligation is for institutions and not for the ccitizen or civil society.

[cccxxiii] See introduction of the present chapter for the meaning of management.

[cccxxiv] The researcher here points simply to the idea of equality. It is known that implementation of such suggestion may have environmental problems, as many scholars have argued. The researcher here insists that the suggestion must be implemented after an impact study on environmental issues in future.

[cccxxv] In the view of right to water, the purpose of water pricing should not be profit orientated. The argument here is not to ensure water accessibility absolutely free; the idea is that pricing should be such that it can discourage and prevent water wastage.

[cccxxvi] Water scholars like María González de Asís, Donal O'Leary, Per Ljung and John Butterworth argue that accountability is essential to prevent water corruption. For details see work called; *Improving Transparency, Integrity and Accountability in Water Supply and Sanitation Action: Learning, Experiences,* World Bank Washington DC, 2009.