Is Water Policy the New Water Law? Rethinking the Place of Law in Water Sector Reforms

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Abstract Water law and policy are in principle clearly distinct at the national and international levels. The former is binding while the latter is not. Yet, over the past two decades, the respective space of water law and water policy has evolved to the point where the distinction between the two is sometimes sidelined. At the international level, the increasing pre-eminence of water policy is due in part to the absence of binding legal frameworks in various key areas of the water sector. This has led international water governance to be significantly different from other sectors. At the national level, reforms in the water sector over the past 20 years have often been heavily influenced by the non-binding international water policy instruments. This article explores the trajectory of water law and water policy at the international level and in India over the past two decades. It highlights the specificities of the water sector in this regard and some of the problems that arise when policy ends up either replacing law or as a framework superseding law, thereby throwing out of gear most of the basic principles around which democratic legal orders are based.

1 Introduction

The two decades since the adoption of the New Delhi Statement have been tumultuous in the water sector (United Nations 1990). One of the areas that has seen tremendous changes is law and policy related to water. Indeed, starting with the New Delhi Statement, a new set of water policy principles has progressively been adopted across a range of international institutions and countries throughout the world.

The set of principles of water sector reforms have had different trajectories at the international and national levels. At the international level, the principles highlighted in the New Delhi and Dublin Statements have been restated on various occasions over the past two decades but there has been no new international water law treaty integrating them (United Nations 1990; ICWE 1992). At the national level, some countries like India have seen a spurt of new water legislation over the past 15 years (Cullet 2009). The majority of these new laws have been inspired by the policy principles developed at the international level.

The interplay between policy and law is a routine matter at the international level where certain fields of international law, such as international environmental law, develop in part through non-binding soft law instruments. Similarly, at the national level, the adoption of policy statements as precursor to the adoption of legislation by parliament or the adoption of administrative directions by the executive to contribute to the realisation of existing legislation is standard practice.[1] Yet, developments in the water sector over the past two decades have shown that the usual distinction between the different types of instruments has been blurred. While this could be simply part of a process of evolution of law-making, it is problematic because water governance has started to have the unfortunate tendency of bypassing existing democratic and public mechanisms in favour of less public and less transparent structures.

Developments over the past 20 years have led to a situation where the policy framework is more developed than the legal framework at the international level in various crucial areas of

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water regulation, apart from the traditional issues concerning transboundary watercourses that are at least partly covered by a binding legal framework (United Nations 1997). The prevalence of the policy framework is made more problematic because it lacks even the legitimacy that soft law instruments of international environmental law have, since water sector reform principles have been elaborated largely outside of the UN context. At the national level, two structural issues have emerged in the case of India. Firstly, some water laws inspired by water sector reform principles reflect more the priorities of water sector reforms than the established legal order within India. Secondly, the widespread adoption of 'water policies' that was proposed by the World Bank in the late 1990s has turned out to be a self-serving exercise that is on the whole not conceived as part of a broader law-making process (World Bank 1998). In fact, in the most extreme cases, water policies have been incorporated in legislation.

The progressive movement away from law and the procedural and substantive safeguards that it affords could be simply seen as an unfortunate turn of events. Yet, the reality of the process is less straightforward. Indeed, water sector reform principles that put forward efficiency before equity and needs before human rights cannot be easily accepted by democratically elected legislatures. The riddle that is the increasing use of 'policy' rather than 'law' and the promotion of policy as the main regulatory instrument in the water sector is thus also linked to the perceived inability to convince most people having to report to a constituency of people struggling on a daily basis to get sufficient safe water to promote water sector principles.

This article examines the parallel evolution of water policy and water law at the international and national levels. At the national, it uses India as its case study since it is one of the countries that has experienced the most wide-ranging water law reforms within the context of water sector reforms over the past two decades. It starts by examining the different rationales for water law reforms. It then examines the way in which policy instruments have been increasingly used and projected as forming the key basis for water regulation. The last section suggests ways in which the relationship between water law and policy can be rebalanced so that equity prevails again over efficiency and fundamental human rights over needs.

2 Water policy and water law – the basic framework

2.1 International level framework

International water policy has dramatically evolved over the past two decades. One of the first markers of the changes to come was the New Delhi Statement adopted at the Global Consultation on Safe Water and Sanitation, 1990 (United Nations 1990). This already recommended the integrated management of water resources, the need for the government to become a facilitator rather than a provider and the need to promote cost-effectiveness, responsiveness to 'consumer' needs and cost recovery (*ibid.*, Principle Nos 1, 2 and 4) The Statement also specifically called for the '*promotion* of the fact that safe water is not a free good' (*ibid.*, Principle No 4, emphasis added).

These early premises were further strengthened in the Dublin Statement in 1992 that specifically set out the principle that water is an economic good (ICWE 1992, Principle No 4). This has been the single most important change to water policy and has been linked to a number of other proposed changes. The recognition of water as an economic good that is scarce has led to a focus on the need to manage water demand and to increase the efficiency of all water uses.[2] This has also led to the call for the introduction of pricing of all water services. At the same time, reforms have introduced the principle of full cost recovery as an operating principle for all water sector activities (e.g. Vörösmarty 2005). This is conceived as a prescription that applies to all water uses and all water users.

The focus of water sector reforms on the need to turn water into an economic good warrants two distinct comments in the context of this article. Firstly, the principles contained in the Dublin Statement have been reiterated on a number of occasions over the past two decades and, for instance, been substantially incorporated in the policies of the World Bank (2004). Yet, one of the key dimensions of the majority of these instruments is that they are not just soft law but soft law adopted outside of the UN framework. In view of the fact that most policy developments following 1992 have taken place outside of a UN context, as is the case with the World Water

Forum,[3] water sector reform promoters have often been keen to portray the founding document as the 'Dublin–Rio' principles (Hoare *et al*. 2003). Yet, it is significant that while the Dublin meeting was part of the preparatory process of the United Nations Conference on Environment and Development (UNCED, also known as the Rio Conference), it had been conceived separately and was always meant to be a technical conference.[4] Further, while the Dublin Statement was forwarded to member states participating in the Rio Conference, neither did the Rio Declaration mention water nor did the UN General Assembly endorse the Statement. The Dublin principles thus lack the kind of legitimacy that would have been conferred by a UN General Assembly endorsement. Secondly, the Dublin principles have not been integrated into any water law treaty.

From a substantive point of view, an analysis of Agenda 21 – one of the main policy outcomes of the Earth Summit and the most elaborate one from a water perspective – is also noteworthy. The drafting history of Chapter 18 of Agenda 21 reveals that the draft available to the last session of the Preparatory Committee prepared before the Dublin conference did include the idea that water must be considered as an economic good. However, the formulation used clearly put the environment and human needs ahead of the economic dimension of water. The draft stated that:

> [p]riority must be given to the sustenance of land/water ecosystems, with particular attention to wetlands and biodiversity, and the satisfaction of basic human needs for drinking water, health protection and food security. For any water utilization beyond this, freshwater resources have to be considered as an economic good with an opportunity cost in alternative uses.[5]

This philosophy still informs the language of Chapter 18 of Agenda 21, which states that '[w]ater should be regarded as a finite resource having an economic value with significant social and economic implications reflecting the importance of meeting basic needs'.[6] This is in contrast with the language of the Dublin Statement that simply called for water to be considered as an economic good in all its dimensions.

Overall, there is no binding international law framework or even well established soft law framework developed within the UN context underlying water sector reforms. This is not problematic in itself. At the same time, this set of principles has made its way in different shapes through to the policy framework and subsequently the legal framework of a number of countries around the world. This calls into question the changing governance framework at the international level, as well as the way international law and policy instruments interact with the national level. In other words, developments in the water sector over the past couple of decades have shown that the traditional structures of international law-making and implementation have dramatically changed. This includes new ways to look at the traditional categories of international law that distinguish binding and non-binding instruments, new ways to weave into the institutional landscape institutions that have lack the legitimacy of institutions established and governed by states, as well as new ways through which domestic law is influenced and coerced into compliance with norms that are not binding international law in the traditional sense.

This has led to a situation where lawyers do not identify a corpus of 'law' because the norms and principles adopted do not fit the traditional legal categories. At the same time, many actors involved in the water sector understand increasingly more often the policy instruments as the only existing framework there is, and adopt it as a given without further consideration. This could be seen simply as a new pragmatic way to develop international law and ensure its effective implementation at the national level. Yet, the fact that the implementation of these principles is sometimes linked to strict conditionality of international financial institutions indicates that a much more evolved understanding of these phenomena is required.[7]

3 Water law and policy framework in India

The water law and policy framework in India has evolved dramatically over the past two decades. Firstly, with regard to water law, a number of new laws have been adopted since the second half of the 1990s. The general characteristic of these new acts is that they are all sectoral. In certain cases, like in the case of groundwater, they fill a gap where there was no statutory framework. In other cases, like in the case of water user

association legislation, they fail to provide a general update to an area in dire need of updated legal frameworks and simply address one specific issue within the broader area of irrigation law. Water law has thus evolved fast but in a sporadic manner that does not contribute to strengthen the overall area of law concerned.

Secondly, the union and a number of states have adopted water policies. The first national water policy dates back to 1987 and was updated in 2002 (GoI 1987; 2002a). It is again in the process of being revised with a planned adoption date in 2012. At the state level, the adoption of state water policies started in the late 1990s. A number of states have now either adopted or drafted a state water policy (Government of Kerala 2008; Government of Uttar Pradesh 1999). These water policies are in principle to be understood as general statements of intent towards the adoption of framework water legislation. Yet, while these policies include general statements that are meant to affect the whole water sector, such as use prioritisation, they have not been used as stepping stones towards a binding instrument but rather as an end in themselves. At the union level, the repeated re-adoption of a water policy can explained, though not fully justified, by the fact that the union does not have a specific mandate to legislate on water issues. At the state level, there are no structural reasons to explain why a policy should be planned as an evolving document without links to any legal framework.

Thirdly, the union government has used administrative directions as a mode of intervention in the water sector for quite some time. In certain cases, as for rural drinking water supply, the intervention of the union has been extremely influential even though it has never taken the form of a legislative enactment (GoI 2010, 1999). This can be explained in part by the fact that the union has used its financial leverage to ensure states adopt the policy framework it wants to promote. As a result, even though the union has no specific mandate to get involved in rural drinking water in individual states, its policy framework has been widely adopted across the country. This also means that when the policy framework changes at the centre, states are relatively quick to adopt the same, as happened with the adoption of a new policy framework for the eleventh plan (GoI 2010).

4 Policy, law and the place of water law in water policy reforms

As indicated by the previous section, the traditional distinction between 'law' and 'policy' has become blurred at the international and national levels in recent decades in the water sector. This could simply be part of evolving law-making techniques and novel ways to realise new policy propositions in practice. Yet, these changes, which may appear superficial and anecdotal at first sight, highlight much deeper attempts to reconceive the place of law in the water sector.

The basic proposition is simple enough. Policy is what defines principles, actors and processes. 'These can then be moved to an enforceable set of decision-making requirements through the law' (Iza and Stein 2009: 7). In other words, in this new understanding, policy defines the broad parameters within which law is tasked with providing a structure for effective water management, for instance, through enforceable rights. In this scheme, '[l]egislation is distinct from, but complementary to, policy… It creates legal certainty thereby facilitating orderly compliance and enforcement of laws' (Iza and Stein 2009: 31).

Ongoing reforms thus see law as the instrument that contributes to the enforcement of a framework already set out in the policy. This is largely opposed to the understanding of law as the instrument through which the legislature sets out the basic framework for regulating the water sector, with the specific details settled by the executive through rules or regulations. The latter is what most democracies around the world implement on a daily basis.

The consequence of this reversal is a democratic deficit in water law-making. This seems at first sight counter-intuitive, given the central role that water plays in most people's lives and the crucial role that it plays on a daily basis for everyone residing in tropical areas in particular. It also seems to run counter to the reforms' self-professed focus on 'participation'. At the same time, this is not particularly surprising. The reforms that have been introduced over the past 20 years specifically seek to make water an economic good on the understanding that this is opposed to the understanding of water as a social good (e.g. GoI 2002b). The primary focus of

reforms on 'efficiency' in the water sector rather than a primary focus on the realisation of the human right to water ensures that, beyond the gloss, ongoing reforms are not particularly people-friendly and thus likely to run into serious opposition in forums made of democratically elected representatives, such as legislatures.

The changes that have affected the water sector are related to broader changes in governance at the international and national levels over the past couple of decades. They happen to be more salient in the context of water partly because there were a number of institutional and legal gaps that provided the basis for the rise of alternative governance schemes. In a sense, the evolution of the water sector exhibits the tendency for governance to move away from a purely state-centric framework towards one that is more diffuse and giving more space to other actors, in particular the private sector.

In effect, the water sector has seen the rise of alternative governance that includes in particular a much bigger role for non-state actors. This is highlighted in the case of two organisations set up in 1996 with the specific agenda of promoting and fostering water sector reforms.[8] The World Water Council (WWC) is usually described as a think-tank and is constituted in the form of an association under French law.[9] Its objectives include the development of 'a common strategic vision on integrated water resources management on a sustainable basis' as well as the promotion of 'the implementation of effective policies and strategies worldwide'.[10] One of its main activities has been the organisation of the world water forums. The second is the Global Water Partnership (GWP), which was set up by the World Bank, the United Nations Development Programme (UNDP) and the Swedish International Development Agency (Hoare *et al.* 2003). The arrangement was formalised in 2002 with the setting of a GWP Organisation whose mandate is to support the GWP Network.[11]

The rise of bodies, such as the WWC and GWP are symptomatic of an evolving governance culture that moves towards a framework where states are losing their near monopoly on policymaking and law-making at the international level. This raises issues of legitimacy, in particular where these organisations seek to influence water policy and reduce the role of law to that of an implementing tool for policy instruments (*cf.* Goldmann 2008). Water at the international level can be seen as one of the fields of environmental governance where hybrid private–public governance has emerged. This is characterised by a framework where '[s]tates are not the driving force behind the creation of such governance systems, but lend them strength through official recognition or incorporation into international law' (Falkner 2003: 76). This is typically the case of world water forums organised by the WWC but given stronger legitimacy by the presence of ministers. This blurs the lines between the public and the private, thus leading, for instance, to confusion with regard to the nature of the instruments adopted, their legality and their legitimacy. These hybrid forms of governance are also known to further marginalise small and least developed countries (Falkner 2003: 78).

4.1 Interactions between law and policy under water sector reforms

The problems associated with the emphasis on policy instruments providing the framework within which water law intervenes can be illustrated by two examples. The first concerns the way in which water sector reforms seek to impose a new understanding of certain principles even where the legal framework is already firmly developed in the area. The second concerns the way in which policy instruments have been indirectly given the force of law in some specific acts in India.

The first point concerns the principle of 'decentralisation and participation', one of the key principles of water sector reforms. The basic issue that arises is the fact that water policy instruments simply seek to give a new meaning to these well-established legal principles.

In the context of water sector reforms, decentralisation often refers to the transfer of responsibilities to civil society and the private sector. This can be traced back to relatively early documents such as the first World Bank water policy, whose definition of decentralisation included in the same sentence decentralisation to local governments and transfer service delivery functions to the private sector and water user associations (World Bank 1993). The more recent UN water report of 2006 has confirmed this understanding of decentralisation

(UNESCO 2006). This explains that, in water sector reform debates, participation and decentralisation are often used interchangeably.

The interchangeability of the two notions is, in fact, one of the hallmarks of the reforms. This is problematic for two broad reasons. Firstly, the dictionary meaning of decentralisation refers to a process of democratic decentralisation in the context of a constitutionally defined system of governance (OED 2005). Secondly, the lack of a clear reference to the need to anchor the process of decentralisation in the existing system of democratic governance provides the basis for another departure from the more usual understanding of the term. Thus, under water sector reforms, economic efficiency is acknowledged as another rationale for decentralisation (UNESCO 2006). As a result, the democratisation of decision-making and economic efficiency are, to a large extent, put on the same level.

The case of India illustrates the kinds of problems that arise where policy instruments redefine legal principles. Indeed, in India, decentralisation has a specific constitutional context whereby democratically elected bodies of local governance, the *Gram Panchayats* in rural areas, have control over most water-related issues at the local level.[12] The spate of water user association laws that have been adopted in the past decade in India is thus no less than surprising in this context since these laws bypass the constitutionally sanctioned scheme of decentralisation and participation in favour of an alternative institutional structure. While these alternative institutions are justified by the need to take a hydrological view of irrigation matters that is not bound by the administrative delimitation of *Gram Panchayats*, water user associations happen to be regressive in terms of participation. Indeed, not all water users are members of the associations – land ownership being a criterion for admission – and some of the more progressive aspects of the *Panchayat* system such as reservation for women and scheduled castes and scheduled tribes are often dispensed with.[13]

The second example concerns the case of the integration of policy instruments into legislation. This not only blurs the distinction between law and policy but also threatens the existing legal framework that sets specific procedures for the adoption and modification of legislation. In the case of several states, starting historically with Maharashtra, the introduction of legislation to set up economic regulators in the water sector has provided the basis for an entirely new way to legislate.[14] The acts do not define the principles by which the water regulatory authorities are supposed to discharge their mandate. Since there is no framework water legislation that lays down the principles that could guide these regulatory authorities, this implies that the state legislature has not provided any guidance to them. Since they are meant to be independent from the government, some guidance is necessary. As a result, while the legislation itself does not discuss principles, it simply refers to the state water policy as being the framework by which the authority must abide.[15] This does not pose an immediate problem insofar as it is assumed that the legislature adopting this provision was aware of the content of the water policy at the time of the adoption of the legislation. This leaves, however, a gaping hole in the legislative framework since the executive can at any time amend or change the policy without amending the legislation. In other words, the principles by which the regulatory authority must function can change without any amendment to the concerned legislation and without reference to the legislature. This is not a theoretical concern since a water policy like the Maharashtra State Water Policy, 2003 includes a section that calls for its revision every five years (Government of Maharashtra 2003).

5 Rethinking the place of law for water regulation

The water sector has been in the midst of major reforms for the past couple of decades. Taken as a whole, reforms have included important policy as well as law reforms. Yet, this masks a much more complex and disturbing reality. What seems to have happened at the international level is that water sector reforms, instead of starting by addressing gaps in the legal framework, found it convenient to choose another entry point in the absence of existing legal norms. The problem identified here may thus be first linked to the underdevelopment of international water law that did not – and still does not – include any treaty on issues of central concern to most of humankind on a daily basis, such as drinking water or irrigation. Further, while relatively robust human rights frameworks were adopted at the international level in the

second half of the twentieth century, the absence of a mention of water in the two UN covenants stands out.

The lack of development of international water law only explains in part why water sector reforms have been developed through policy instruments. Indeed, various options were open to use the opportunity offered by a greater focus on water to foster the development of international water law. The fact that this was not done is partly explained by the fact that water sector reforms are partly coterminus with the onslaught of neoliberal policies whose hallmark is general distrust of the state. Both happen to coincide when proposed reforms are bound to be unpopular and affecting most people, as is the case with water, an issue that concerns everyone directly.

At the international level, the need of the hour is a completely new approach to regulating the water sector. What is essentially required is to start reforms afresh from two different perspectives. Firstly, reforms in the water sector must be initiated, adopted and implemented by organisations of the UN family that are the only ones with the legitimacy to address issues so central to human survival. Secondly, the reforms must start by establishing the legal bases for a strong international water law that has not only the approval of 'stakeholders' as is the case with current policy instruments but more importantly the approval of a majority of states, and in particular a majority of small and/or least developed countries that are even more marginalised in non-UN settings than they are otherwise.

At the domestic level, in a country like India where water sector reforms have been introduced through a mix of policy and legislation, a number of steps need to be taken to rebalance the existing framework. At the union level, two issues need to be addressed. Firstly, the repeated use of a 'national water policy' as an instrument to give direction to the overall water sector needs to be abandoned. This is linked to the fact that such a policy statement is meant to be the precursor to the adoption of legislation. The lack of a specific constitutional mandate to legislate on water in general is not an appropriate answer since the union has on several occasions in the past used alternative routes to legislate even where *prima facie* it did not have a specific mandate, as in the case of the Water (Prevention and Control of Pollution) Act, 1974.[16] The need to move beyond the repeated use of updates of the national policy framework is also illustrated by the fact that the process has been 'held' in large part by the Ministry of Water Resources, which despite its name is not a real umbrella water ministry but only one of several ministries having key responsibilities in the water sector, some of the others being, for instance, the Ministry of Drinking Water & Sanitation. One of the results has been that the national water policy does not constitute a comprehensive policy statement taking into account the needs and specificities of all water uses to the same extent. The concerns highlighted here are now recognised and the Planning Commission has, for instance, initiated an attempt to draft framework water legislation in the context of the preparation of the twelfth five-year plan.

Secondly, the union government has liberally used its powers to adopt administrative directions in areas of the water sector where it felt that intervention was necessary, for instance, because of the politically sensitive nature of the subject.[17] This is the case with regard to drinking water, where despite the absence of any legislation governing drinking water supply in rural areas, the union government has repeatedly introduced 'programmes' that have in practice been followed by states throughout the country, in part because of the related financial incentives. The use of these administrative directions that do not refer to any legal framework may be justified for some time in the absence of legislation or other legal framework. Yet, after more than 40 years, another direction needs to be taken. This is, for instance, illustrated by the fact that even though the human right to water is now clearly established in India, the latest administrative direction of the union government specifically excludes the language of human rights from its scope.[18]

At the state level, a host of issues need to be addressed. Firstly, unlike at the national level, there is no reason why state water policies should not be precursors to the adoption of framework legislation. While there had been no sign of any movement in this direction until now, Rajasthan may be the first state to move towards the adoption of framework legislation. This should

be encouraged in every single state. Secondly, states need to rethink the way in which they transform policy into law. This is, for instance, the case with water user association legislation. The model imported from outside happens not to fit in with the existing legal framework, in particular the decentralisation framework giving *Panchayats* control over irrigation at the local level. Thirdly, states must ensure that the international policy framework, which is not binding on any country because it does not have that quality in international law, does not come to bind them at the point of the adoption of legislation. While this has not been the only factor behind the adoption of legislation such as water user association legislation or legislation setting up economic regulators in the water sector, the fact that development agencies have specifically imposed law conditionality on Indian states in the water sector is cause for worry. This not only reduces the democratic process associated with law-making to little more than a rubber-stamping exercise but also turns the international non-binding policy instruments into binding law at the national level.

The last point concerning conditionality is crucial. It confirms that the lack of legitimacy of processes at the international level cannot be sidelined as being irrelevant because instruments like the declarations or statement of world water forums are non-binding. Indeed, in a complete reversal of roles, the non-existent international water law that is the policy consensus built around water sector reforms in institutions often lacking the legitimacy that the UN has turns out to be much more 'effective' and much more 'binding' than many international treaties. It is no less than ironic to think that while most countries of the world are still unwilling to ratify the only international water law treaty that exists at the UN level, the UN Watercourses Convention (United Nations 1997), because of concerns over control of watercourses under their jurisdiction, the same states (or in the case of India its federal units) end up finding themselves engulfed in international law that does not tell its name but finds its way in circuitous and largely untransparent ways.

Notes

1 On white and green papers in the UK, see for example, Young (2000).
2 Bonn Recommendations for Action, Conference Report, International Conference on Freshwater, Bonn, 3–7 December 2001, www.ielrc.org/content/e0111.pdf (accessed 1 December 2011).
3 Note that while UN institutions have participated in sessions of the World Water Forum (WWF) and while the World Water Council includes some representatives of UN institutions on its Board of Governors, they are not in control of either.
4 For example, letter from G.O.P. Obasi to J. Pérez de Cuéllar, No 37.760/H/S-118, dated Geneva, 23 October 1990.
5 Preparatory Committee for the UNCED, Protection of the Quality and Supply of Freshwater Resources: Application of Integrated Approaches to the Development, Management and Use of Water Resources – Options for Agenda 21 as Revised During the Informal Consultations at the Third Session of the Preparatory Committee, UN Doc. A/CONF.151/PC/WG.II/L.17/Rev.1 (1992) 3.
6 Agenda 21, Report of the UNCED, Rio de Janeiro, 3–14 June 1992, UN Doc. A/CONF.151/26/Rev.1 (Vol. 1, Annex II) c 18(68).
7 For a list of some water law-related conditionality concerning India, see ielrc.org/water/doc_condition.htm (accessed 1 December 2011).
8 The setting up of a world water council was already suggested in 1992 at the World Meterological Organization (WMO 1992: 42).
9 World Water Council Constitution, 14 June 1996 (as amended).
10 *Ibid*. art 2(3).
11 Statutes for the Global Water Partnership Network and the Global Water Partnership Organisation, 12 December 2002.
12 Constitution of India, art 243G and Eleventh Schedule.
13 An exception is *Chhattisgarh sinchai prabhandhan me krishkon ki bhagidari adhiniyam* 2006, s 5, ielrc.org/content/e0605.pdf (accessed 1 December 2011)
14 Maharashtra Water Resources Regulatory Authority Act, 2005, available at ielrc.org/content/e0533.pdf (accessed 1 December 2011).
15 *Ibid*. s 12.
16 Adopted on the basis of the stipulations of art 252 of the Constitution of India.

17 On administrative directions, e.g. Jain and Jain (2007: 163).

18 This is established by comparing Department of Drinking Water Supply, National Rural Drinking Water Programme – Movement Towards Ensuring People's Drinking Water Security in Rural India – Framework for Implementation 2009–2012 (2009) with the version published a year later (GoI 2010).

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