

Towards integrating climate change considerations into Indian groundwater regulation

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Different starting points for integration

- Water law: Fragmented (surface/groundwater, drinking water/irrigation) and lack of overall framework. Nevertheless, unavoidable starting point since main subject matter there
- Environmental law: includes water (Environment Protection Act, 1986), includes specific water pollution legislation (Water Act 1974) though the climate change framework is limited
- Fundamental rights: water, food, health, environment or housing recognised providing an opportunity to build bridges

What limitations does climate change highlight?

- Atomised regulation of groundwater ensures that no effective response can be given to local, national or global environmental issues arising
- Environmental law provides a general framework for inter-linked issues but this stops at generic issues, eg not effectively integrating land-use
- Focus of rights framework on individual rights misses out on the collective dimension of the challenges triggered by climate change

Towards better integration of climate change mitigation measures

- Law and policy framework has not yet integrated mitigation concerns
- Structural reasons: union-level environmental laws, state-level water laws
- Example of links between climate, forests and water: Forest regulation, including 2006 legislation, not addressing the broader connections (possibly not surprising since REDD + at international level tends to think of water only in terms of co-benefits)

Towards better integration of climate change adaptation measures

- Water law does not integrate adaptation measures directly
- All new legal instruments are based on water scarcity but without taking into account the broader connections
- Various flood-related measures but limited to reaction to monsoon flooding
- Disaster management: Legislation providing as part of Minimum Standards of Relief for provision of drinking water (nothing else)

Lessons from the existing and proposed legal frameworks

- Existing frameworks are not suited to the job (to the extent climate change is understood as bringing new elements)
- Proposed frameworks

Groundwater Model Bill, 2011: yes to the extent of a focus on protection of aquifers but no vision beyond the state level

Ministry-led two new bills 2012 (river basin) and 2013 (framework legislation) largely only paying lip service to the environment/climate change (at any rate, much less than other initiatives)