

World Water Day

Time To Think Beyond The State Water Policy 2019

By Philippe Cullet

World Water Day 2020 provides an excellent opportunity to start thinking about the steps that need to be taken following the adoption of the Meghalaya State Water Policy in 2019. The policy provides a number of interesting starting points for strengthening water regulation in the state but also raises a number of questions that need to be addressed before moving forward. There are a number of more specific elements requiring further debate, of which this article addresses the following four:

Need to protect people's fundamental right to water

The water policy appropriately gives priority to drinking water in the water use allocation, in line with what other state water policies do. At the same time, it entirely omits any reference to the fundamental right to water, a right we all rely on to meet our basic daily water needs and is thus at the centre of water regulation. The water policy also ignores water needs linked to the realisation of other fundamental rights, such as the rights to food, health and livelihood. What is even more surprising is that where there is a reference to people entitled to claim the fundamental right to water, they are referred to as consumers. This unfortunately reduces the link between water users and the state to a transactional relationship. Besides failing to mention people's rights, the water policy seems to be based on the idea that individuals can be blamed for what may otherwise be seen as part of the government's duty to act. Thus, the policy argues that '[l]ow public consciousness about judicious use of water and its economic value also results in its wastage and inefficient use'. Each one of us should indeed be mindful of our water use and be environmentally conscious. Yet, this is a government policy and it needs to first reflect the rights of people and the obligations of the government. Rights related to water are to be fulfilled by the government, whose primary responsibility is to ensure the realisation of fundamental rights. As such, the question is not whether people have 'expectations' to better access to water but the fact that the government has a duty to provide sufficient and safe water to all individuals entitled to it.

Central role of the state in ensuring water justice

In response to the problems identified in the water sector, the policy proposes a new way of managing water captured under the concept of Integrated Water Resources Management (IWRM). This has been the standard response of governments around the world for several decades. On the one hand, IWRM provides tools to realise the proposed 'integrated and holistic approach', namely look at water in a broad sense. On the other hand, IWRM has been linked with a push towards water privatisation, economisation of water, and efficiency. In the water policy, this leads to the proposition that there is a need to set up 'an efficient and effective regulatory framework for the water sector in order to realize the economic value of water'. This is to be realised through the setting up of an (independent) water regulatory authority. The proposal for a new authority is not a reflection of an absence of institutions in the water sector but rather an attempt to sideline existing government bodies in favour of governance by expert-meant to depoliticise decision-making.

The problem is that water is not and should not be seen as a good to be efficiently allocated by the market. Further, while scarcity is increasingly an issue in Meghalaya, it is not the only relevant issue as befits a state that also benefits from plentiful rainfall. Rather, water governance should be based around social equity and the need to protect water sources and

watersheds, based on existing local arrangements. This can be captured under the concept of water justice, which gives a central place to the shared nature of water, concerns for social equity, the need for protection of ecosystems and the duty of the state to provide sufficient clean water. Ensuring justice is one of the primary functions of the state whose role in the water sector is thus crucial.

Foster decision-making at the local level

Decision-making related to water use and protection should be at the local level because people usually rely on local water sources for their daily water needs. This is in line with the idea of decentralisation and the principle of subsidiarity, according to which any action should be taken at the most local level, unless it is not appropriate to do so.

In this context, the water policy only recognises the need to '[p]romote and support community participation in development and management of water resources'. This sounds promising at first sight but community participation is on the whole jargon for consultation without the right to decide. Further, participation should not be linked to the withdrawal of the state from its functions, as seems to be proposed where communities are 'encouraged to take up cleaning of rivers from time to time'. The focus should be on ensuring that local issues can be addressed at the local level and that decisions may be taken democratically at the lowest possible level. This should also go hand in hand with the strengthening of mechanisms to ensure that the government from the local to the state level can be made accountable for actions it takes.

Prioritise conservation and local needs

The water policy is meant to provide a framework for addressing the state's water needs in terms of conservation and use. Yet, it gives much more importance to water use than protection. The focus on use is not surprising to the extent that we need access to water simply to stay alive but this access can only be ensured if water sources and watersheds are effectively protected. Protection of water sources and ecosystems thus cannot be subsidiary as is the case here.

The lopsided focus on use is also apparent in the idea that there may be 'surplus water', which can be exported to other parts of the country. On the one hand, this may be seen as a gesture of solidarity with other parts of the country. On the other hand, the concept of surplus water on which inter-linking of rivers is built is a fallacy in environmental terms. The water policy of the state should thus be preferably built around its own needs, including that of its riverine ecosystems.

Next steps

Widespread public engagement with the concepts proposed in the policy is necessary before adopting new water laws and regulations called for in the water policy. Other states are going through similar processes, such as Madhya Pradesh currently drafting the Right to Water (Equitable and Sustainable Use) Act. Similar efforts are needed in Meghalaya since a number of entitlements recognised by the Supreme Court, like the fundamental right to water, have not been enshrined in state legislation yet. The recent government plan to rejuvenate some rivers confirms that it is keenly aware of the importance of water. This needs, however, to be taken up more systematically and on a larger scale, so that the whole state benefits from similar measures. A new regulatory framework will contribute to this.

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