

Groundwater Regulation and the Environment: the Model Bill, 2011

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Context

- Common law rule – land based groundwater right
 - E.g. *Plachimada Coca Cola* case
- Basis of common law rule
 - Ignorance
 - Unnecessary
- Post-independence scenario
 - Policy of promotion of groundwater extraction
 - “serious crisis of groundwater overuse and groundwater quality deterioration” (Planning Commission of India)

Contd.

- Legal responses
 - Groundwater Model Bill, 1970/2005
 - State groundwater laws
 - Environmental laws
 - E.g. Central Groundwater Authority (1997)

Problems

- Access only to rich landowners
 - Implications on the human right to water
- Treating groundwater in isolation
 - Major focus on uses/users
 - Environmental dimension – a missing link
- Institutional/regulatory mechanism
 - Centralised command and control approach
- Conservation
 - Rain water harvesting – enabling provisions

Model GW Bill, 2011 – environmental aspects

- Remedying mission/modernisation mission
- GW as part of water cycle and environment
 - ‘unitary nature of water’
 - link between surface water and groundwater
- GW – a common heritage held in trust
- Recognition of the human right to water

Contd.

- Protection – a key objective
 - Groundwater protection zones
 - Need based regulation and protection
 - Continuous process
 - Groundwater security plans
 - Aquifer based use and protection plans
 - Binding norms

Challenges ahead

- Convincing the state governments
 - Consultation
- Incorporating diversities
- Management of institutional web
- Exploiting opportunities
 - E.g. Tamil Nadu