

**Policy Dialogue Proceeding on
Revisiting water and sanitation bill for clean and equitable drinking water and sanitation access**

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1. Introduction

Nepal is currently at the stage of institutionalizing federalism which requires legal, policy and institutional reforms in various areas of natural resource governance and management. Among various natural resources, management of drinking water and sanitation is also a crucial issue. In this regard, the Government of Nepal has recently drafted 24 page ‘‘Water and Sanitation Bill 2076 (2019)’’ which has currently been tabled in the Parliament. The Bill has envisioned citizen's access to clean and equitable drinking water and sanitation services, which is also guaranteed as fundamental right of citizens by the Constitution of Nepal. However, Bill provisions have specific problems in the context of water right, water access, sanitation, federalism, sustainability of water source and overall institutional structure. As the Bill is under discussion in the Parliament, it has raised wider concern among diverse sections of the society, especially the key stakeholders with respect to the substance of the Bill.

In this context, Southasia Institute of Advanced Studies (SIAS) in collaboration with Federation of Drinking Water and Sanitation Users Nepal (FEDWASUN) and Municipal Association of Nepal (MuAN) organized a policy dialogue entitled ‘**Revisiting Water and Sanitation Bill for Clean and Equitable Drinking Water and Sanitation Access**’ on 29 July, 2019 in Kathmandu. The objective of the policy dialogue was to develop collective understanding among stakeholders on the weaknesses of the Bill and identify the areas to improve in it. In the meeting, two presenters made 10 minutes speech going into the several aspects of the bill which was followed by a participant’s observation and comment over the bill.

In the following section we summarize major issues raised during the dialogue and finally draw conclusion from it.

Key Issues

➤ Lack of Conceptual Clarity

The bill is missing clarity in terms of objective including theoretical clarity. Whether it is a Drinking Water Act that has come for the implementation of water access to all considering as fundamental right or the Integrated Water Resource Act remains unclear. Further, it is not mentioned in the bill whether it replaces Water Resource Act 1992 or not. In case it replaces, the bill is incomplete in terms of covering all aspects of WRA

1992. Issue was raised that this bill did not incorporate framework of Sustainable development goals. Similarly, this bill has missed pertinent issues of sanitation sector as only a small section of portion of the whole bill incorporates this agenda. Participants suggested for elaborating the sanitation issues in the bill. Redefining the bill's target was strongly recommended.

➤ **Missing definition of terminologies**

Definitions of basic concepts like “Basic Drinking Water and Sanitation’ are nowhere elaborated in the bill nor, any indicators developed about it. Hence, comprehensive definitions of the key terms to provide conceptual clarity should be provisioned in the bill.

➤ **Lack of Responsibility**

There is no clearly defined role of federal, province and local government over water source conservation in the bill. It was recommended that community water users committee should come under local government and local government needs to monitor it. Likewise, local government must have right to fix the water tariff.

➤ **Problematic licensing provision, tenure and monitoring**

All participants stated that the provision of license renewal is problematic in the bill as this will increase the case of water conflicts in local region. This bill has not envisioned conflict and any points that will help to reduce conflict. Further, tenure of license has not been clear as it has mentioned maximum period of 25 years. The bill does not speak of any linkage between the scrapping of license renewal with respect to the lack of contribution in water resource conservation. During the discussion, it was raised that strict punishment like provision of scrapping license of water users committees is not appropriate as such an authoritarian model does not fit in water sector because water supply cannot be stopped any single day as no any people can live a single day and it comes under fundamental right. During discussion it was appreciated that no water no fee concept is a good point of this bill.

It was recommended that immediate justice mechanism rather than cumbersome legal procedures need to be adopted for ensuring citizens right to drinking water. Similarly, need of an inspection officer with strong authority and power for enforcement of rule regarding the water use right, source conservation, compensation mechanism and its appropriate utilization etc was recommended to include in the bill as current bill has not specified who will be designated for monitoring

➤ **Sustainability issue**

The bill has come with an assumption that there are enough water sources. No attentions have been given to the conservation of drying sources. It has neither dealt with catchment level issues nor ground water recharge. Further, water conflicts are growing due to competing use of limited sources. So a clear mechanism for source protection needs to be

mentioned in the bill. It was advised that for proper water supply, the bill needs a clear vision that water can be supplied only if water source is protected.

➤ **Lack of clearly defining water use**

This bill priorities domestic water at the top, but it does not indicate what it means by it. It includes only drinking water or flush water as well is not clear. Prioritizing domestic water might curtail water use for irrigation in the upstream region. Similarly it was suggested that clear definition is required between domestic use and commercial use.

➤ **Other supplementary acts not consulted**

This act fails to discuss about other existing acts like Water supply Corporation Act, Water Supply Management Board Act which has autonomous mandates for managing water supply in the urban region. The meeting suggested a wider consultation of these acts as the current bill looks like an umbrella act that governs drinking water management system.

➤ **Lack of consideration of alternative water sources**

This bill discusses more on surface water, but it should equally consider ground water and rainwater as water source for drinking. In addition, it should consider conservation of traditional sources like stone taps, ponds for the benefit of particularly the poor and marginalized communities.

➤ **Contradictory views on private sector engagement in water management**

People representing community users group raised their concern that bringing private sector in water management will curtail the role of community users in water management. However, group of academicians and researchers shared their different views. While some said that private sector is already in the water management and the Bill has tried to bring this sector under the legal domain, others were critical of the corporatization of the bill . Alternatively, the need of treating private sector as an important collaborator was also stressed.

➤ **Flawed process**

The bill should have come only after the National Water Resource Policy. In addition, this bill lacks review of good practices. Weak deliberation and lack of coordination between provincial and local government has resulted in a lop-sided draft which did not take into consideration the key research findings on issues of water security and governance. Further, it is contradictory as the water right is under both single and concurrent right of the three tiers of government. So federal government doesn't have exclusive right to forward this bill. It was agreed that this bill has developed by federal government considering it as fundamental right.

Conclusion

Participants agreed that the goal of the bill has not been made clear. Likewise, the sanitation sector has not been properly addressed in the bill. Regarding drinking water, participants agreed that it is more distribution centric and least bothered about water sources for future. The focus is only on surface water not ground water. Socio-economic institutions have been undermined and the impact of development model on water has not been seriously contemplated. Hence, the new provision of licensing is likely to ignite conflict over water resource and management as per the view of the participants

On the other hand, lack of coordination among the federal, provincial and local government during the drafting of bill is a major flaw in the process. Finally, it was agreed that lack of review of good practices, weak deliberation and lack of coordination between provincial and local government has resulted in a lop-sided bill. Hence, the meeting recommended revisiting the Bill with adequate stakeholder consultation to secure local autonomy and for sustainable management of water sources. Drinking water management through single institution rather than multiple institutions needs to be implemented.

Annex: List of Participants

S. No	Name	Affiliation
1	Chandra Lal Pandey	Kathmandu University
2	Ganesh Shah	Former Minister
3	Deepak Poudel	SOHAM
4	Raja Ram Shrestha	
5	Nabin Kumar Sahi	KIRDARC
6	Alok Rajouria	IWMI
7	Laxmi Dutta Bhatta	ICIMOD
8	Anushiya Shrestha	PhD Scholar
9	Dil Raj Khanal	Lawyer
10	Rajendra Khanal	FEDWASUN
11	Rameshowor Parajuli	Dhulikhel drinking water
12	Bhim Upadhya	Former secretary
13	Kashi Raj Dahal	Legal Expert
14	Bed Byash lamichhane	
15	Suchita Shrestha	SIAS
16	Kushal Pokharel	SIAS
17	Doren Thapa	FEDWASUN
18	Bhintuna Shrestha	ENPHO
19	Kisor pokharel	
20	Gautam Kumar Lama	FEDWASUN
21	Dil Bdr. Khatri	SIAS
22	Uddhav Bhattari	Lumanti
23	Govinda Pokharel	NWCF
24	Kribina pathak	NWCF
25	BB thapa	NGO fedration
26	Suman Shakya	Smart Pani
27	Chiranjibi Bhattari	NWCF
28	Mukti Pokharel	Sanitation expert
29	Kaustuv raj Neupane	SIAS
30	Kalanidhi Devkota	MuAN
31	Ratna Bdr Syantan	
32	Netra Timisna	SIAS
33	Rajendra Shrestha	ENPHO
33	Kamal Devkota	SIAS

34	Hari Chandra Ghimire	Dhulikhel
35	Madan raj Bhatta	HELVETAS Nepal
36	Ashok Byanju	MuAn
37	Kalindra Prasad Chaudhary	FEDWASUn