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WUA Legislation Country Profiles: NEPAL

Constitutional framework Water management is a responsibility of the national Government.

1. Name of organization

“Water Users’ Association” (WUA) is used as a generic term in the Water Resources Act (see References below). The Irrigation Regulation (see References below), on the other hand, uses as a generic term “Users’ Association” (UA). This latter acronym is used in this document.

2. Purpose

Irrigation and “to make use of water resources for collective benefits on an institutional basis”.

3. Legal status and capacity

UAs are corporate bodies, with perpetual succession. UAs can own and dispose of property; they can sue and be sued.

4. Establishment

Compulsory: the beneficiaries of any irrigation project are required to constitute a UA. UAs must register with the Government. No additional provision on the procedure for establishment.

5. Membership

Automatic: when a UA is constituted, water users in the area automatically become members.

5.1 Eligibility criteria

Water users of the same water delivery system.

5.2 Rights and Duties of members

A third of all members of a UA can submit an application stating that the UA has failed to properly operate the irrigation system. In this case, the Government can dissolve the Executive Committee and call for new elections.

6. Internal structure

Executive Committee composed of no more than nine members, including at least two women, selected by the water users from among themselves. The election procedure and the term of office of the Executive Committee must be specified in the UA statute.

Statute: UAs adopt their own statutes regulating their internal organization and functioning.

7. Functions, Powers and Rights

7.1 Functions

Delivery of irrigation water, operation and maintenance of canals. In general, UAs are responsible for the operation of water resources development projects. More specifically, for the operation and maintenance of irrigation canals, for assistance in the distribution of water to land and for the construction of additional infrastructure to improve the irrigated area.

Dispute settlement: no specific provision.

Others: UAs are responsible for keeping and updating a record of charges members must pay for the services provided to them. Moreover, they keep a record of the land to which water has not been distributed and recommend exempting such users from the payment of service charges.

Within three months of expiry of the fiscal year, UAs must submit to the Government a financial report and detailed information about the services rendered to members.

UAs shall establish a separate fund for the maintenance of the irrigation system and deposit in it at least ninety percent of the income raised from the collection of service charges.

UAs are responsible for planting and protecting plants and trees along canals and waterways.

A representative of the concerned UA participates in the Monitoring Committee constituted by the Government to supervise the proper functioning of the irrigation system transferred to the UA, including extent of users' participation and quality of the service.

7.2 Powers

Levying and collection of assessments. Service charges are set by a district level committee (Service Charge Committee) in which the chairperson of the concerned UA sits. The Committee also sets fines for late payment of service charges.

If management of the irrigation infrastructure has been transferred to a UA, the UA is responsible for collecting the service charges.

Imposition of fines. No specific provision.

Others. If management of the irrigation infrastructure has been transferred to a UA, the UA is responsible for drafting and making known to the public the conditions for the utilisation of the relevant services.

7.3 Rights

Water rights. UAs can apply for licences for the use of water.

Rights in the infrastructure. Water resources projects can be transferred to UAs, on terms and conditions defined by the Government. The law requires that restrictions shall apply against the following: transferring the infrastructure to others; spoiling, damaging or changing the infrastructure; carrying out activities that may lower the quantity and quality of water for irrigation and authorising other persons or organizations to operate the infrastructure.

Rights of way. No specific provision

8. Financing

Sources of income. Revenue from the collection of service charges after the irrigation infrastructure has been transferred to a UA.

UAs can raise loans. Land ownership certificates shall be deposited as collateral.

Revenue from the sale of trees planted along canals and waterways.

9. Government role

UAs need to register with the Government in order to be eligible for the transfer of irrigation infrastructure. Registration is subject to a fee.

The Government can collect service charges as government dues if a member fails to pay the amount due to the UA.

The Government constitutes Monitoring Committees to supervise the functioning of irrigation systems transferred to UAs.

In case a UA needs technical support in the performance of its functions, it may request it from the Government. The Government, through the responsible Irrigation Officer, is required to provide it.

The Government reserves the right to regulate matters in relation to irrigation including, by implication, in relation to UAs.

10. Dissolution

No specific provision, except regarding dissolution of the Executive Committee, as mentioned in 5.2 above.

11. Federation of Associations

Name: Users' Coordination Association, UCA

Purpose and Functions: the coordination of UAs operating in the same area. The coordination of activities related to operation, maintenance and water distribution in its area of operation.

Establishment: voluntary, composed of one representative from each member UA.

UCAs must register with the Government.

Internal structure: UCAs can pass their own statutes regulating their internal organization and functioning.

References

Legislation

Water Resources Act 1992 (No. 2049 of 1992). An Act made to provide for the management of water resources, 17 December 1992 is available in FAOLEX database at URL <http://faolex.fao.org/faolex>

Irrigation Regulation 2059 (2000), available on the Internet through the Department of Irrigation of Nepal at URL <http://www.doi.gov.np/doi/ID2/3/nxt/9.html>

Literature

Pradhan, R., von Benda-Beckmann F. and von Benda-Beckmann K (Editors) 2000 **Water, Land and Law. Changing Rights to Land and Water in Nepal. Proceedings of the workshop held in Kathmandu 18-20 March 1998.** Kathmandu: Jagadamba Press.

Prachanda Pradhan, 2000 **Farmer managed irrigation systems in Nepal at the crossroad**, paper presented at the 8th Biennial Conference of the International Association for the Study of Common Property (ISCAP) held in Bloomington, Indiana, U.S.A. available on the Internet at URL: <http://129.79.82.27/IASCP/Papers/pradhanp041500.pdf> (June 2001)