
WATER AS A HUMAN RIGHT

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Abstract

Water remains the essential need of humanity. This need has transformed itself into one of the essential human rights in India. The article labels the elementary concept and content of the human right to water and its implications for development policy on water delivery, as well as some current initiatives towards the implementation of the rights approach in development and national water politics. It also abridges the serious steps in the development of "water as a human right" and various measures and policies for the implementation of the right to water. Thus, the conservation and restoration of the reserve needs to be governed in a way so that the laws and policies dealing with the resource are coherent and sustainable. Therefore, this paper contends that the governance of the resource and the rights-based approach for its realization are complementary to one another. It will emphasize the judicial interpretation of right to water in India and will attempt to project the common links between the governance of the resource and the realization of the right by strengthening the commonalities observed in their evolutionary path and the manner in which they understand the resource.

Key words: *Water, Human Rights, Factors affecting Water Resources, Water and Education.*

INTRODUCTION

Water is the soul of life and without water, humanoid cannot live for more than a few days. It theatres a vigorous role in nearly every function of the body, protecting the immune system of the body's natural defenses and helping eliminate waste matter. But to do this effectually, water must be accessible and innocuous. The Greek philosopher Thales of Miletus (600 BC) stated, 'Water is the beginning of all'. Water is a vivacious component for every living organism and life without water is not possible. The water issues being faced today are not novel. A quick glance at water history divulges millennia-old struggles over the ownership of water, the pollution and depletion of water sources, and conflicting water uses. Many Nations are facing daily challenges just to access safe water for drinking and hygiene - a fundamental human right easily

enjoyed by most. The current situation is dishearteningly. No one qualms that water is essential to human life. Historically, access to water has been a source of enduring conflict governed by force of two arms, power, and economic imperatives. More than one billion individuals lack access to a basic supply of clean water (of whom 80% live in rural areas) (WHO & UNICEF, 2000, p. 1). Over 2 billion each year suffer from diseases linked to water (UN Commission on Sustainable Development, 1997, p. 39) and approximately 3900 children die each day from a lack of clean water and sanitation. Moreover, the poor in informal settlements often pay water vendors exorbitant prices for water, while women and children are denied opportunities for work and education since they are commonly assigned to water-carrying responsibilities in order to meet the water demands for daily life.

Dearth of safe water is a causing serious ailment such as diarrheal diseases, which kill over 2 million people every year (the vast majority children, mostly in developing countries). Contaminated water, whether drunk or used to cook food, harms the health of the people. Water is also essential for hygiene, growing food, keeping animals, rest, exercise and relaxation and for a variety of social and cultural reasons.

According to the World Health Organization, about 20 liters of water per person per day are needed to satisfy basic hygiene needs, and more water is needed for laundry and bathing. Twenty liters of water per capita per day will only support short-term survival, which is considered a top priority to prevent starvation and disease. For long term survival, people need more water—more than 70 liters per day for personal washing, washing clothes, cleaning, growing food, sanitation and waste disposal, business crops and livestock, gardens and recreation. Poorer communities use less water because of far lower expectations concerning water availability due to lack of accessibility, including appropriate facilities⁴⁸ and infrastructure, lack of resources to buy water, and climate change. When appealing the right to water, promoters should also consider other accessibility-related factors, including freedom of access, equality, cost, distance, facilities, and information.

WHAT ARE HUMAN RIGHTS AND RIGHT TO WATER?

Fundamental rights are a group of rights which are guaranteed to all the citizens of the nation by the Constitution of India under Part III. These rights spread over universally to all citizens residing in the nation, irrespective of their race, place of birth, religion, caste or gender. These rights are recognized by law as rights requiring a high degree of protection from the government and they cannot be violated by anyone. The duty of

protecting these rights lies on the government or the state. Most of the Fundamental rights provided to the citizens are claimed against the State and its instrumentalities and not against the private bodies.

Right to water fall under third generation to right to water and is a right that requires infrastructure for it to be exercised. If people have a right to water, then the water needs to be conserved and so, for preservation of water, water bodies, glaciers, etc. nations require institutions such as laws governing its use, chemical exposures, treatment of water, waste disposal mechanisms as well as bodies set up to regulate such use.

Thus, right to water entitles everyone to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use.

- **“Sufficient”**: The water sources for water for each person must be sufficient and continuous for personal and domestic uses. The uses may generally include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene.
- **“Safe”**: The water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health. Measures of drinking-water safety are usually defined by national and/or local standards for drinking-water quality.
- **“Acceptable”**: Water provided should be in acceptable colour, odour and taste for each personal or domestic use. All water amenities and facilities must be culturally appropriate and sensitive to gender, growth and privacy necessities.
- **“Physically accessible”**: Everyone must have a right to a water and sanitation service that is physically accessible within, or in the immediate area of the household, educational institution, workplace or health institution.
- **“Affordable”**: Water, and water facilities and services, must be affordable for all.

According to:

“Article 31: Everyone has the right to clean and accessible water, adequate for the health and well-being of the individual and family, and no one shall be deprived of such access or quality due to individual economic circumstances”.

The Right to Water states that water should not be treated as a social, cultural good and not primarily as an economic good. But rather, it should be pure and clean for individual and family health and hygiene and also should be available for future and no one should be deprived of its access and use, may be of any status.

As with any human right, the right to water imposes three types of obligations on State Parties:

- **Respect:** Governments must refrain from unfairly interfering with people's access to water, for example, by disconnecting their water supply.
- **Protect:** Governments must protect people's access to water from interference by others, for example, by preventing pollution.
- **Fulfil:** Governments must adopt the necessary measures directed towards full realisation of the right, for example, by passing legislation, devising and implementing programmes, allocating budgets and monitoring their progress.
- Thus, law concerning water rights may define who can usage water and under which circumstances. Individuals can be allocated water rights which may consist of a predefined amount of water for specific purposes under specific conditions (e.g. farmers have water rights for irrigation purposes).

FACTORS ADVERSELY AFFECTING THE WATER RESOURCES: There are many factors which affect the water resources.

- **INCREASING WORLD POPULATION:** As we all know that the population has increased at a very faster pace during the last decades and renewable water supply per person has fallen to 58%. As the population rises, we know that the water supply will become more and more stressed, and issues of adequate supply will become more critical.
- **RISING PER CAPITA CONSUMPTION OF WATER:** India is an agricultural land where irrigation has increased from around 50 million hectares at the turnoff the century to over 267 million hectors today. And also, the factor of industrialization has led to a seven -fold increase in freshwater withdrawal. Global annual water use by industry in expected to rise due to rapid industrial development of developing countries. If we continue to use water resources at such a pace a time would come when we would not have enough water for our daily needs also.
- **MISMANAGEMENT OF WATER:** Water crises is essentially a crisis of governance. Lack of adequate water organizations, excessive diversions of public resources for private gains, have impeded the effective management of water supplies. The effect of deforestation has direct impact on water supply by increasing the runoff and lack of vegetative recover decreases water quality. Overgrazing also negatively impacts the vegetation cover and contributes higher

losses to water and water quality. Reclamation of wetlands deprives catchments of natural flood mitigation system and affects the water quality. More than half of the world's major rivers are drying and polluted and depleted for overuse.

- **GLOBAL CLIMATE CHANGE:** Recent data suggest that climate change will account about 20% of increase in global water scarcity. But as we all know that climate change is uncertain and even often certain weather condition affect water quantity and quality. Floods and droughts have more than doubled since 1996.

However, it is important to differentiate different categories of values at stake and the ethical criteria of fairness and sustainability in order to establish an order of priority among user rights, as well as management criteria for each level and save water for future.

WATER AND EDUCATION:

Water and Education are co-related. Water education at all heights needs to be enhanced if the challenges identified in the previous themes are to be met. Water education must go beyond the teaching of hydrological sciences, and be both multidisciplinary and interdisciplinary. This approach would include advancing scientific knowledge through the exercise of scientists as well as increasing data or information on water issues through courses aimed at water professionals and decision-makers. Water education should also spread out to media specialists so that they can communicate water issues truthfully and effectually. The work will embrace communal edification strategies to promote community-wide water conservation, as well as enhance skills in local co-management of water resources. Efforts will be made to make water a significant component of the K-12 curriculum.

Water-related centers play an important role in this happenings, in addition to the network of universities, organizations, foundations and research facilities linked to the inter-governmental Hydrological Programme's other themes, schemes, ventures, plans and initiatives. Case studies of leading practices in sustainable water management will be developed to maintain and expand the training of technicians in water-related fields. Teaching Sector should continue to be a partner in the expansion of water-related materials and activities aimed at the K-12 curriculum.

The youth, if educated properly, will discover more ways of water conservation and be more effectual in dealing with the repercussions instigated due to water scarcity. They can bring more opulence to their native land. In addition, they can imbibe education in other folks as well. Many will step out to study further and become professionally

stable. The more the inhabitants will be educated the more will be the probabilities of having a better environment in a particular zone. Hence, water and education are interdependent. Though, one can exist without the other but jointly they will embellishment. Engaging the youth in educational opportunities about water, science, and technology will help to create a future generation of water stewards and innovators.

FUNCTIONS AND VALUES OF WATER:

Water is one of the restraining factors for life on Earth therefore it is essential to manage it conscientiously for ensuring sufficient reserves of good quality water for the future. It is an imperative that awareness of the value of water and water management is developed through all generations starting from pre-school age.

The different functions and values of water can be divided in three complementary levels:

- **Water for life** concerns providing water for the survival of both human beings (individual and collective) and other living beings. This must be recognised as the highest urgency in order to guarantee the sustainability of ecosystems so that access for all to a minimum quantity of good quality water is recognised as one of the human rights.
- **Water for citizens'** concerns providing water for general interest purposes, as regards public health or the promotion of values of equity or social cohesion, must be ranked at the second level of priority, in connection with citizen's social rights and in the general interest of society as a whole. This is the role of public institutions.
- **Water for development** is an economic function relating to production activities which in general concerns private interests like irrigation for agriculture, hydroelectricity, or industry and should occupy the third level of priority.

This function consumes the largest part of all water resources from rivers and aquifers, and is, therefore, largely responsible for the problems of scarcity and pollution arising in the world. This production-based demand must be managed in accordance with economic efficiency, social equity and environmental sustainability.

IMPLEMENTATION OF RIGHT TO WATER: These are common reasons that explain difficulties encountered in the implementation of the right to water. From this, a list of key factors for successful implementation of the right to water can be established:

1. A clear understanding of the meaning of the right to water. It must be clear to everybody what the right to water does and doesn't mean. Moreover, guidelines should be provided to help governments to implement the right to water. Roles and responsibilities must be well defined, and right holders and duty bearers clearly identified.
2. Increasing awareness and education. The public and consumers must be informed about their rights. It is necessary for people to know that they have rights and to learn how to use them. However, it is also important to understand that they have also obligations regarding water. People have the right to seek, receive and impart information concerning water issues.
3. Community participation. It is necessary to involve all stakeholder groups, in particular communities, in decision-making processes, to allow community self-management and to support local actions. A legislative framework to allow effective public participation in decision-making should exist.
4. Improving the enforcement of the right to water by the creation of accessible and simple claim mechanisms at all levels. Any person or group which has been denied its right to water, must have access to justice at both national and international levels. NGOs should be able to seek redress before administrative bodies or courts on behalf of those without access to services.
5. Setting up solidarity schemes domestically and internationally to ensure access to water for poor/rural areas and marginalised populations.
6. Linking access to water with access to sanitation. A more integrated approach, where the provision of water supply is closely linked to the provision of sanitation and health and hygiene education is needed to guarantee sustainability and quality of water. Lastly, before implementing the right to water, one of the first things to do is to identify those who do not enjoy the right to water. This monitoring necessitates reliable sources and transparency. Governments must have a good knowledge of the situation on the ground.

ACTIONS FOR THE FUTURE:

New models come and go in the development sector. The human rights approach is valuable because it puts people first. It emphasizes the need for participation, systems of accountability, legal enforcement and a focus on marginalized groups. It also creates

a common language in which all actors can work to solve the problems being faced. It provides an alternative framework for evaluating the commodity approach and the current emphasis on market solution.

Some Suggestions Are:

- ❖ The right to water should be recognised in national legislation and policy.
- ❖ One of the first steps in the implementation of the right to water should be to create awareness about the existence of the human right to water and the importance of this right. There should be sustained political will and commitment for the implementation of the right to water at all levels of governance.
- ❖ In order for the right to water to be implemented, the leadership and initiative of key actors, whether government departments, NGOs or international agencies are required as 'boosters' to help revise laws and policies, provide education and assistance to communities and ensure their effective participation in decision-making. The fact that the right to water is included in international law - and increasingly in national law - is only a preliminary step and will not automatically lead to implementation. However, these rights provide the authority, inspiration and principles for key actors to advocate for and implement the right to water.
- ❖ The political and strategic framework of the right to water must be strengthened defining quantitative means of implementation (financial, material) and monitoring mechanisms. Implementing the human right to water requires appropriate mechanisms to take into special consideration the needs of the most disadvantaged, including informal settlements.
- ❖ Financial means must be increased and sustained, in particular, subsidies to reinforce local capacity, training and infrastructure. To ensure a local projects' success, these funds must be mobilised through decentralised mechanisms directly accessible to local actors.
- ❖ Access to information must be guaranteed and community participation in decision-making must be promoted. As in the case of access to information, the right to participate in decision-making, especially for key stakeholders, is essential to achieve sustainable development and to anticipate eventual problems of failure to consult stakeholders on risky environmental policy decisions.
- ❖ It is essential that a monitoring process is defined to evaluate progress resulting from the implementation of the human right to water and sanitation. It's necessary to create institutions that monitor implementation of the right to water.

- ❖ The implementation approach for the right to water must be sustainable, ensuring that this right may be guaranteed for present and future generations.
- ❖ Further if privatization is opposed, then alternative public and community models must be clearly developed. Advocates will need to grapple with the corruption and inefficiency that impairs many public utilities and work to generate public support for reforming public institutions so that they better serve the poor. Unions, NGOs and institutes can make a difference by researching and promoting low-cost community-driven solutions.
- ❖ Also, citizens and communities need to be assisted to participate effectively in the decision-making process in the water and sanitation sector, particularly in discussions over water reform, and to ensure that any privatization processes are open and transparent. Clearer and more detailed standards on cost recovery and privatization are also needed.
- ❖ Moreover, there is an urgent need for effective monitoring of public and private provision of water, particularly as it affects marginalized and vulnerable groups (informal settlements are often excluded from data collection, for example). This will require greater mobilization around right to water.
- ❖ At times communities not connected to the water infrastructure should be assisted to monitor their water quality (as well as accessibility), not only to avoid deadly diseases, but also to hold governments and other suppliers to account for their obligations.
- ❖ Legal and institutional frameworks at the national level to protect and promote the right to water should be further developed. One additional option is an international convention on water or more specific and enforceable international conventions on specific aspects of the right to water.

CONCLUSION

Even though the constitution does not say about the right to water as a fundamental right which does not includes in the constitution of India. But the court interprets in some situations and says that the right to water should be considered as fundamental rights. In India we have to push suitable steps to incorporate the privilege to access to water. The convention and requirement of this privilege is vital as it is frequently dependent upon assets accessible to ensure such a right. Social and financial rights, for example, the privilege to water, are famously politically delicate since their powerful

elaboration requires the political branches to change their designation and dispersion of assets, here and there at a very fundamental level, because of legal course. There are a few issues in spite of having the sacred appropriate to water in India.

There are many incredible regions in India where water foundation does not exist and water conveyance of any sort isn't conceivable. The method is to give free fundamental water which should be supplemented with a plan that means to quickly build access to water foundation. Appropriate to Water in India isn't explicitly ensured either through the Constitution or any enactment. It is an inferred right, affirmed through an arrangement of laws which present an obligation upon the state through its different offices to counteract and control water contamination. Also, water and education are inter-reliant. Though, one can exist without the other but jointly they will embellishment. Engaging the youth in edifying opportunities about water, science, and technology will help to create a future generation of water stewards and innovators. Also, the concept of water should be well taught by K-12 curriculum to make children aware about the importance and usage of water.

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