

## **Human Right and Safe Drinking Water in Rural India**

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### **Abstract**

The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. However, about 1.1 billion people worldwide do not have access to safe and sufficient water to drink, to cook with or for personal hygiene. Combined with the lack of adequate sanitation this causes the death of about 2 million people every year, most of them children. Many more suffer daily from the lack of water, from water related diseases and from the loss of income and education that goes hand in hand with the resulting health problems and the laborious collection of water. The situation no more worth in India, In spite of huge water and sanitation scheme still majority of rural and urban people aren't been accessed to safe drinking water in terms of quality and quantity for their personal an domestic uses. Because of Indian constitution right and influence of international declaration on human right water has been consider as an issue of human right and at present people have been executed the right based approach to accumulate the safe drinking water. Mean while Indian courts from supreme to bottom are also redefined the article 21<sup>st</sup> of constitution towards converge the right to safe drinking water into fundamental Rights. This paper deals with current scenario of drinking water in India and world at large, human right approach to safe drinking water and constitutional safe guard towards get the safe drinking water as well how better we can improve the safe drinking water through human right approach.

**Keywords:** Human Right, Constitution, Fundamental Rights, Sanitation, Human Right.

## **Introduction**

The 21st century will open with one of the most fundamental conditions of human development unmet: universal access to basic water services. More than a billion people in the developing world lack safe drinking water that those in the developed world take for granted. Nearly three billion people live without access to adequate sanitation systems necessary to reduce exposure to water-related diseases. The failure of the international aid community, nations, and local organizations to satisfy these basic human needs has led to substantial, unnecessary, and preventable human suffering. An estimated 14 to 30 thousand people, mostly young children and the elderly, die every day from water-related diseases. At any given moment, approximately one-half of the people in the developing world suffer from disease caused by drinking contaminated water or eating contaminated food (United Nations, 1997).

Air and water, the most precious gifts of the nature, are very essential not only to the mankind but flora and fauna also. All living creatures on the mother earth have a right to environment in order to survive themselves. Water is a prerequisite for survival and clean water is necessary for good health. For mere physical survival human body needs 3-5 liters of water per day. Without proper water consumption the human body is not able to absorb food properly, which can lead to serious malnutrition even if food is actually “consumed”. Lack of access to clean water results in many water related infections and epidemics (WHO, 2000).

## **Safe Drinking Water: Indian Scenario**

In water quality, India ranks 120th in a list of 122 countries in the world and in terms of availability of water India ranks 133rd in a list of 180 countries. With a projected increase in population of 15 million every year, the main problems to be faced would be conservation and equitable distribution of water. At least 200 million Indians do not have access to safe and clean water. An estimated 90% of the country's water resources are polluted with untreated industrial and domestic waste, pesticides, and fertilizers. Rural India has more than 700 million people residing in about 1.42 million habitations spread over 15 diverse ecological regions. Meeting the drinking water needs of such a large population can be a daunting task. The non-uniformity in level of awareness, socio-economic development, education, poverty, practices and rituals and water availability add to the complexity of the task. Despite an estimated total of Rs. 1,105 billion spent on providing safe drinking water since the First Five Year Plan was launched in 1951, lack of safe and secure drinking water continues to be a major hurdle and a national economic burden. Around 37.7 million Indians are affected by waterborne diseases annually, 1.5 million children are estimated to die of diarrhea alone and 73 million working days are lost due to waterborne disease each year. The resulting economic burden is estimated at \$600 million a year.<sup>1</sup> While ‘traditional diseases’ such as diarrhea continue to take a heavy toll, 66 million Indians are at risk due to excess fluoride and 10 million due to excess arsenic in groundwater. In all, 1,95,813 habitations in the country are affected by poor water quality.<sup>3</sup> It is clear that the large investments have not yielded comparable improvements in health

and other socio-economic indicators (Krishnakumar, 2003). In developing countries, of the 37 diseases identified as major causes of death, 21 are related to water and sanitation. Water-borne diseases are causing more than 4 million infants and child deaths every year in developing countries. The issue of quantity and quality of water thus becomes a fundamental basis of life (APPEN, 1998).

### **Safe Drinking Water and Human Right Declaration**

Human rights are universal and the birth right of every human being. Human rights safeguard the dignity and equal worth of each person and cannot be taken away. Many human rights are related and interdependent. Human rights are often written in a way that delegates the countries (or states) as responsible for ensuring that people can enjoy their human rights (WHO,2003). Under international human rights laws, water is protected as a human right. In the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, and the 1966 International Covenant on Civil and Political Rights, water is not explicitly mentioned as a human right. It was, however, implied through other human rights, such as the right to life, right to an adequate standard of living, and the right to health. In 2002, the United Nations officially adopted water as a human right. General Comment 15, of the International Covenant on Economic, Social and Cultural Rights states the following: “The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.” This definition reflects three basic aspects or elements of the human right to water that always have to be fulfilled: availability, accessibility, and quality.

In July 2010, the United Nations General Assembly adopted a resolution calling on States and International Organizations to grant financial resources, transfer of technology to developing countries and enhance efforts to provide ‘safe, clean, accessible and affordable drinking water, and sanitation for all’. The Bolivian introduced text was adopted by 122 infavour and 41 abstentions with none against the resolution, thus recognizing the human right to safe, clean, accessible and affordable water and sanitation for all. The recognition of right to safe, clean, accessible and affordable water as a human right by the United Nations, if adopted by government’s world over, would empower every human being with legal entitlement for safe, clean, accessible and affordable water despite several limitations and shortcoming to do so. But, it would bind governments with legal obligation to ‘respect, protect and fulfill this human right to water’ (WHO, 2003).

**Availability:** This means that there has to be a source where people can get a sufficient quantity of water for their personal and domestic use. This includes water for drinking, cooking, personal hygiene and basic domestic cleaning. Not only should there be enough water to satisfy basic everyday needs but the supply should also be continuous.

**Accessibility:** Of course it is of little value if there is a water source but people cannot access it. To ensure physical access the distance to the source of water should not be

too great and the way to the source should not be blocked or dangerous to use in any way. Equally important is that people are able to pay the costs related to using the water. If the water is not affordable then physical access might be realized but not economic access.

**Quality:** The water must also be of adequate quality. It has to be safe in the sense that it does not threaten the health of those who use it. Furthermore, its taste, odour and colour have to be acceptable. To protect the quality of water supply it is especially important to have adequate sanitation in place since contamination with faecal bacteria is the primary cause of most water-related diseases.

### **Key international agreements/conventions treat water as a human right\***

Mar Del Plata Declaration (1977) states that all people have right to drinking water in quality and quantity, irrespective of the level of economic development of the native country and stage of development.

Convention on Elimination of all Forms of Discrimination against Women [1979, Article 14 2(h)] explicitly mentions about provision of water and sanitation to women.

Convention on Rights of Child [1989, Article 24 2(c)] mentions right to safe drinking water of a child from a non-polluted source.

Agenda 21, UN Conference on Environment and Development (1992) calls for provision of safe drinking water and environmental sanitation for poverty alleviation.

Programme of Action of the International Conference on Population and Development (Cairo 1994) mentions right to water and sanitation in realizing complete human potential and sustainable development.

The government is obliged to ensure that people can enjoy their basic human rights. There are three levels of obligation. First, the government must respect the right, and not do anything to interfere with the right. In the case of drinking water, this means that the government cannot deny anyone access to safe drinking water. The second level of the government's duty is to protect the right, by preventing third party interference. For drinking water, this may involve the establishment of legislation that prohibits manufacturing companies from polluting drinking water. The third level of obligation is to fulfill the right, when necessary. In the case of drinking water, this may require the government to establish a water treatment plant or construct wells to provide safe drinking water.

### **Right to Water in India**

The positive impact of the international declarations, knocking by the civil society groups at the doors of justice, and judicial interventions by the Supreme Court and several High Courts created a favorable atmosphere for considering access to drinking water a right in India. Under fundamental rights in the Constitution of India, Article 21 entitled 'protection of life and personal liberty' states: 'no person shall be deprived of his life or personal liberty except according to procedure established by law' (GoI, 1986). This has popularly come to be known as Article on 'right to life'. Over the years, as new problems of citizens' rights and welfare and the role of the State came

up before the judiciary, the scope of the right to life has been expanded considerably. In other words, the 'Supreme Court breathed life' into the words of Article 21 (personal life and liberty) as 'life with human dignity, with all faculties intact' (Venugopal, 2003). In course of time this concept has been expanded to include several other vital aspects of human life like 'pollution free water and air for full enjoyment of life', health, environment, housing etc. Public interest litigations played a significant role in this process. In view of the scope of this right, environmental, ecological, air and water pollution etc., are regarded as amounting to violation of Article 21. Further, 'the entitlement of citizens to receive safe drinking water (potable water) is part of the right to life under Article 21' (Sinha, 2001).

### **Judicial Pronouncements on Right to Water**

Summing up key judicial pronouncements it emerges that the right to life in the Constitution means rights to water and sanitation as well. Courts have not only termed right to water as a fundamental right but also have defined water as a 'social asset'. Some of the key pronouncements are given below:

In 1981, the Supreme Court in a case ruled "The right to life includes the right to live with human dignity and all that goes with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and mingling with fellow human beings. The magnitude and components of this right would depend upon the extent of economic development of the country, but it must, in any view of the matter, include the bare necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of human self."

In 2002, the apex court validated the Sardar Sarovar dam project on Narmada in 2000 interpreting the right to life article as right to water. "Water is the basic need for the survival of human beings and is part of the right to life and human right as enshrined in Article 21 of the Constitution of India and can be served only by providing source of water where there is none."

In 1990, the Kerala High Court ruling on a groundwater extraction case involving water supply plan for the island of Lakshadweep ruled that government should not extract groundwater impacting the sources in future that in turn violated the Article 21. It ruled: "... the administrative agency cannot be permitted to function in such a manner as to make inroads into the fundamental right under Article 21. The right to life is much more than a right to animal existence and its attributes are manifold, as life itself. A prioritizing of human needs and a new value system has been recognized in these areas. The right to sweet water and the right to free air are attributes of the right to life, for these are the basic elements which sustain life itself."

### **How we can improve access to safe drinking water and recognize the human right:**

There are obstacles to overcome in fulfilling the human right to water. These obstacles include poor management of freshwater, lack of planning, unequal distribution of water and sanitation services and privatization of water services. One

of the goals of the Millennium Development is to ensure environmental sustainability. The target of this goal, in particular, is to halve the proportion of people without sustainable access to safe drinking water and sanitation by the year 2015.

Due to global population growth, 275,000 people need to gain access to water supplies each day until 2015, if the goal is to be met. The United Nations reports that, for this to happen, four things must happen: first one, Governments and countries need to recognize that water is a human right that must be accessible and affordable to all, including those who are too poor to pay. Secondly, Governments and countries need to develop national strategies that will improve water and sanitation services, as well as reduce poverty. Thirdly, International aid in this sector must double. Fourthly, global action plan needs to be developed to emphasize the priority of providing adequate water and sanitation services to all.

## Conclusion

The inadequate access to water and sanitation to the poor in India has been going on for a long time even before the advent of economic reforms. The term “right” in this paper is used in the sense of genuine rights under international law, where States have a duty to protect and promote those rights for an individual. There is, however, greater awareness today on the social and economic rights of citizens. In India, the right to food campaign has gained momentum with significant positive results in recent years (Dreze, 2004). Therefore union, state and local governance should consider the safe drinking water is a priority and fundamental right of its citizens. Meanwhile they should put an effort to design a comprehensive plan to reach out the marginalized group of the community. Also, it really would help to the nation to keep upward economic growth and development of healthy nation.

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