

The Life Line of Human Beings—“Right to Potable Water”

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Abstract— Without water human being cannot survive. Natural resource in form of water is so precious that a day without water is not possible. A resource like water is becoming scarce day by day and the brunt of it is being felt throughout the world. A challenge is there in front of the world today that, how to make proper utilisation of these valuable commodity in form of water which is so scarce. The UN world water development report also states that, lack of potable water is affecting millions of people and availability of potable water is reducing at an alarming rate. A humans livelihood depends on water. No access to water will be considered as denial of basic human rights. There is no explicit provision mentioned under Indian Constitution, water as a fundamental right. Indian judiciary time and again through its various judgements have recognised the importance of water in human daily life. Thereby have made water as basic human right which every citizen of India should enjoy which is interpreted under Article 21 of Indian Constitution. The State is duty bound to protect and to provide adequate potable water and also to protect water sources from getting polluted and encroached. Article 21 has a wider scope wherein health, disease free and a pollution free environment, providing sanitation, basic facilities etc. are also considered as basic rights. But in reality these basic human needs are often neglected and much less is done to counter these problems. The situation of availability of potable water is so serious and grave that if human beings do not take positive steps in conserving and protecting water in the coming five years the situation will be such that in many countries people will die due to non-availability of water. This paper is an effort to understand and point out the role played by water in a daily life and steps that man-kind should take to protect and preserve this important resource which nature has given us.

Keywords: water as a precious commodity, conservation of water, depletion of ground-water, proper utilisation of water, preservation of water, deficiency in rainfall.

1. INTRODUCTION

For survival on earth every living being is solely dependent and rely on three important factor which are air, water and land. Due to these three factors in form of natural resources are essential to sustain life on this planet. Survival without water is impossible. Out of 71% of water only 0.3% of water is available as potable water. Globally availability of potable water is decreasing at an alarming rate which will have adverse effect on millions of people.

Problems relating to water and can be discussed and elaborated in various issues such as contamination of water, effects of climate change, growing population of the world,

inadequate policies regarding conservation, storage and shortage of water, inappropriate management practices, extensive use of groundwater and surface water for agriculture and industrial purposes etc. are main reasons of acute shortage faced by human civilization. Surface and ground water are disappearing or getting exhausted at a very rapid pace. That is why many parts of the country are facing acute shortage of water-problem. Millions of people do not have access to any proper source of water. On an average three to four hours are spend by women and children everyday to collect water which is only available after travelling long distances.

To add to the problem of water is the ever increasing human population. Free flowing river, canals, and lakes are disappearing as they are becoming dumping grounds as the cities and industries are acquiring these lands for the city development purposes. On the other hand river pollution is at the highest possible level as waste from the industrial and chemical factories and city sewages are dumped into these rivers without treating them. All the major rivers which provide water to almost 80% of the people in the society is polluted. Even 70% of the ground water is polluted. The above figures indicate that, there is a very less safe drinking water available. Safe drinking water is not available to almost 30 crores people in India. These people are forced to drink contaminated water which is becoming a major cause for the wide spread of water borne diseases and sufferings among the people. The proportion of water borne diseases is 80% in Indian people. Women and children are affected the most and every year 16 lakh children on an average are dying due to effect of water pollution. So one can observe that shortage of water and contamination in water is a threat to basic human life which violates millions of peoples human rights.

Indian judiciary is always in favour of matters relating to environmental conservation. It can be observed through many judgements given by Indian judiciary in favour of protecting environment which also includes water and has always understood water as a basic need every individual should have. The judiciary has recognised water as a fundamental right under Article 21 of Indian Constitution for every citizen of India and have always directed the state or statute towards fulfilment of these needs.

There are judicial activism created by Supreme Court under Article 21 in environmental matters discussed as under:

- i. The Supreme Court released the gravity of clean water

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and healthy environment. [1]

ii. Human survival is based on availability of water which is the basic human right to sustain life. [2]

iii. In ‘A.P. Pollution Control Board II v. Prof. M.V. Nayudu’ [3] , The Supreme court withholding the Environmental Protection Act and Water Act 1974, directed that, any state cannot grant permissions to any polluting industries to come up in the vicinity of prohibited area such as water bodies like lakes, ponds, rivers etc. which the Andhra Pradesh government failed to abide it.

iv. Pollution free air and water are the living rights everyone should enjoy.[4]

v. Supreme court has directed or stated that, every state is responsible for providing adequate water supply in form of healthy drinking water which will counter water borne disease.[5]

vi. Fundamental Rights can be related or inculcated with a phrase “Right to water is right to life”. [6]

vii. “Articles 21, 48-A and 51-A (g) of Indian Constitution” [7] have made provisions and guarantees healthy air and water.

viii. Basic human rights means right to food, clean drinking water, pollution free environment, good education, adequate medical facilities is guarantee as a right in civilized society. [8], [9]

x. Every state is under an obligation to provide its citizens with hygienic and clean potable water. [10]

The judiciary has recognised and pointed out and which can be reflected in their judgements that, people of the society are rightful owners to have adequate potable drinking water which judiciary considers as a fundamental right of every citizen. Judiciary further directs environment protection awareness should be the initiative of the government to protect it.

The Indian Constitution also reveals certain provision relating to water rights. Like under Article 15 (2) no person should be denied or discriminated from the use of water, well, tanks, bathing ghats etc. Even Article 39 (b) speaks about protection of rights of the people over natural resources including water. Article 48-A [11] and Article 51-A (g) [12], added in the Indian Constitution by 42nd Amendment Act 1976 under directive principles and fundamental duties; which impose a duty on state as well as on citizen of the country to protect water resources and to preserve environment. Even though directive principle of state policy is not enforceable in court, but Indian judiciary has time and again have tried to bring them under the canopy of Article 21. Thus it is said that directive principle and fundamental rights are supplementary and complementary to each other. [13]

Criminal Procedure Code and Indian Penal Code also recognise certain rights and duties on conservation, protection, preservation of water and other resources on state and citizens as basic human rights of every person in the society. Magistrate can issue order under section 133 and 144 to control, to avoid and to remove the pollution including water pollution when it is observed that there is danger for human safety, human life and human health. Under Indian Penal Code Section 269 and 277 are invoked to prevent water pollution in public reservoirs and springs. Punishment are inflicted for water polluters for doing mischief under section 425 of IPC.

The ultimate aim of these laws is to provide hygienic, safe and sufficient potable water to the people of India. Water is a basic necessity to sustain life and thereby it becomes fundamental duty of the State to provide clean drinking water under the provision of human rights.

II. METHODOLOGY

The methodology used for this research paper is descriptive and analytical. The researcher through secondary source of data and with the perusal of relevant literature made a thorough analysis of the data (doctrinal) in question and tried to correlated it with the facts and issues before final conclusion.

The protection of water resources guarantees human rights so that, individuals of society will have appropriate atmosphere which will improve their living conditions, health and life. The provision for this protection is also mentioned in various environmental laws. Few of the environmental law are:

1. “Water (Prevention and Control of Pollution) Act, 1974,”
2. “The Water (Prevention and Control of Pollution) Cess Act 1977,”
3. “The Environment (Protection) Act, 1986”,
4. “The Ground Water (Regulation and Control of Development and Management) Bill 2005”,
5. “The A.P. Ground Water (Regulation for Drinking Water Purpose) Act, 1966”,
6. “The A.P. Water, Land and Trees Act 2002”, and
7. “Indian Easements Act 1882” etc.

The sole purpose of these above Act’s is to protect water-bodies from the ill-effects of pollution and to avoid contamination of this water-bodies so that they are available for human utilization and consumption.[14] These Acts also lays down guidelines and tax structure for industrial water consumption and regulations regarding disposal of waste-water. The Act also suggest measures regarding water-quality and means that can be implemented to control water-pollution and the importance of water in life of human beings.[15] The provisions regarding utilization of ground water by means of well and bore-wells is to be regulated and a proper record is to be maintained through registration process regarding this wells. The aim is to control and regulate the consumption of ground water and suggest mechanisms for maintaining and developing ground water levels. The importance of tree plantations along the water bodies which in turn will regulate the exploitation of ground water and surface water and to promote water conservation. The Easement Act states that, natural flow of a river or stream or a water body should not be obstructed or polluted by owners who resides on the banks. [16]

The dire need of methods and promotion such as the rain-water and roof top harvesting in urban areas or cities so that conservation of water takes place and these water can be utilised in future when a short-fall or availability of water is a problem. Mechanisms for reutilization and reuse of gray water and black water to its fullest capability or capacity



Where in less water will be utilised or consumed through this method. Strict laws or fines to be applied so that contamination and pollution of water-bodies does not take place by industrial unit or municipal bodies. The government or municipal bodies are discharging all the sewage into the water-bodies where by water is polluted and made unfit for drinking. Water bodies have become a dumping pit for human waste, industrial waste and construction waste. Due to this prominent water-bodies are disappearing at a alarming rate and are consumed by modern development which is taking place over these water-bodies.

The sole purpose of these laws is to stop unethical use of these water bodies which are the ultimate source of providing water for drinking and human consumption of the people.

III. FINDINGS

Throughout the world there is an outcry which relates water as a basic human right. For this there are international as well as regional convention and covenant passed to preserve the human rights of every human being. Some of these Conventions are mentioned below:

- a. "Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979." [17]
- b. "Convention on the Rights of Child, 1989." [18]
- c. "Convention on the Rights of Persons with Disabilities (CRPD)". [19]
- d. "African Charter on the Right and Welfare of the Child, 1990". [20]
- e. "The Human Rights to Water and Sanitation (HRWS)".[21]
- f. "The Human Rights to Safe Drinking Water and Sanitation". [22]
- g. "Universal Declaration of Human Rights, 1948". [23]
- h. "International Covenant on Civil and Political Rights, 1966". [24]
- i. "International Covenant on Economic, Social and Cultural Rights 1966". [25]
- j. 'Regional Conventions',
 - i. "European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950". [26]
 - ii. "European Social Charter, 1961". [27]
 - iii. "American Convention on Human Rights, 1969". [28]
 - iii. "Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, 1988". [29]
 - iv. "African Charter of Human and People's Rights, 1981". [30]

The above inferences made by all the convention give emphasis on right to life, right to health and right to living. This itself confer that, right to water is a human right as life is dependent and sustained because of water, without water all living things in the world will not survive. Thus inference can be made that violation of these above rights means violation of right to potable water.

IV. RESULTS AND DISCUSSION

Below data reveals the current states of availability of water. State wise bifurcation of percentage of water and the effects of irregular or deficiency of monsoon.

| Capacity or accessibility of water on earth | Percentage of water available |
|---|-------------------------------|
| Seas , Oceans | 97% |
| Groundwater, ice and water in other forms | 2.7% |
| Potable water | 0.3% |
| Total | 100% |

Depleting ground water in States 2018

| Depleting groundwater in a States | Percentage of water depleted |
|-----------------------------------|------------------------------|
| Uttar Pradesh | 83% |
| Tamil Nadu | 60% |
| Maharashtra | 53% |
| Telangana | 47% |

Deficiency in Rainfall in States 2018

| | |
|----------------|-----|
| Delhi | 88% |
| Maharashtra | 54% |
| Uttar Pradesh | 51% |
| Madhya Pradesh | 47% |
| Uttarkhand | 46% |

Thus overall 35% deficient of rainfall with fifth consecutive years. It has been discussed by the Modi government in there mega campaign of Jal Shakti Abhayan which is new ministry created to fight against the crisis of water in India. The scheme 'Nal se Jal' scheme was launched to provide piped drinking water to every household which is the module of government's Jal Jivan Mission. The water crisis emerged because of certain reasons some of them are like government is leading all the sewage into water-bodies making it unfit for drinking. These water-bodies or lakes are nearly 60% to 70% encroached. None of these water-bodies are recharged and it is found that these water-bodies contain 2bcm of silt. Most of the water-bodies are used as a garbage pit. There is water crisis suffered in rural areas more because water has been diverted from rural areas to urban areas. The population of India is increasing day by day this is one of the main cause that availability of water per head count is rapidly decreasing. Decrease and change in climate or monsoon cycle in India is observed due to effects of global warming.

V. CONCLUSION

Our past and present government of India have introduced many reforms and Act whereby proper utilization and consumption of potable water should takes place. But these Acts and reforms had very less impact on protection of these potable water. Today we can see that, contamination and pollution levels in this potable water is at a highest level and increasing at an alarming rate where it becomes misfit for human consumption. One can find that there is a ever increasing cases of ill-health and diseases cause to human beings due to this polluted water. Recent studies have found out that 80% of diseases cause to human beings are due to or related to consumption of polluted water. This is a wake-up

call for every citizen of India where he or she should understand the value and importance of this potable water which is very scarce and should make efforts to protect and conserve it. It is a duty of every individual to make an effort and contribute for this cause so that our future generation will be protected from these dire consequences relating to water.

‘Better late than never’ the present government is working in this direction and has realised the severity of water crisis which India is facing in many states and is making efforts to counter it. A separate ministry has been formed by the present BJP government in form of ‘Jal Shakti’ which will be involved ‘Nal se Jal’ scheme, Jal Jivan Mission, Namami Gange Project, Sanchay Jal Behtar Kal and look into matters relating to water- conservation and protection which India is facing. This ministry has suggested many mechanisms and solutions to counter these water-related problems from rural to urban areas. The ministry also addressed matters relating to state and international disputes regarding water.

Suggestions for water management and water conservation

- a. Construction of small check dams, rain water and roof top harvesting, artificial recharge of ground water.
- b. Awareness campaign for water literacy.
- c. Renovation and redevelopment of traditional and other water bodies.
- d. Pay water system for all users.
- e. regulation of utilization for ground water and surface water.
- f. Interlink rivers to stop wastage of excess water.
- g. Intensive afforestation.
- h. Restoration of ponds, lakes and other river system.
- i. Imposition of fine for inappropriate use of water.
- j. Mechanism to control population.
- k. Watershed development.
- l. Discourage cultivation of water intensive crops.
- m. Reuse of bore well and recharge structures.
- n. Promote community driven water conservation.
- o. Stop rapid ground water depletion.
- p. Integration of government programmes.

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