

## **Right to Clean Water and Sanitation: “Is it the Main Challenge Right Now to Accelerates a Collective Right ‘?’**

**Dr.P. Kumaran, Principal, Govt.Law College, Madurai-20,**

*“Safe drinking water and adequate sanitation are crucial for poverty reduction, crucial for sustainable development and crucial for achieving any and every one of the Millennium Development Goal “,*

*-Ban Ki-moon, UN Secretary General*

### **ABSTRACT**

This paper aims to address the principles and constitutionally guaranteed fundamental right for water and sanitation. This study explores and emphasizes that poorer and marginalized should be given an equality and non-discrimination mannered in allocating with the public natural resources. And the state being the duty-bearer, it has to ensure access to water and sanitation to magnificent right-holder. A review of State policy and legal framework will be required for implementation the right to water and sanitation. therefore, this study guides and covers legal sources which provides the right to water and sanitation and also surveys a selection of sources which would obviously obligate State to complying with the measures which are the basic and fundamental in the race of the right to water and sanitation. Through out of this paper, I explain the importance of these rights and an evolution of it in what majestic way the judiciary makes sure of it into the mainstream of the fundamental right.

**KEYWORDS:**CLEAN WATER AND SANITATION, HUMANRIGHTS, SOCIAL JUSTICE, EQUAL DISTRIBUTION.

### **INTRODUCTION**

Right to safe water and very basic sanitation is a guaranteed fundamental entitlement and which should be normally in complied with the international standards which is promoting and protecting the human rights. The good governance should establish strong and clear policy, transparency and stringent cooperation. To generate public benefits, the Government extend such services to the hardest to reach areas and groups. For instant, as UN requires, the government should think about beyond the conventional systems of sewerage as they are being the costliest and consuming to establish. and UN emphasis that innovation is needed in all approaches like, managing rural water through new models. Another scenario to be considered is financial innovations and new financial instruments governments. Governments

can enable innovation through sound regulation. Water supply and sanitation is the responsibility of sub-national state governments under the Indian Constitution. At present, the national government sets water supply and sanitation policy. States plan, design and execute water supply schemes accordingly through their departments of public health engineering or rural development engineering, or their state-level water boards. While state governments are in charge of operation and maintenance, they may pass the responsibility to village or district-level panchayats in rural areas, called Panchayat Raj Institutions (PRIs) or to municipal governing bodies in urban areas, called Urban Local Bodies (ULBs). Given the highly decentralized methodology of water and sanitation services, likely to be no autonomous regulatory agency for the water supply and sanitation sector in India at the state or national level (Leavens & Derksen-Schrock, n.d.).

## OBJECTIVES

- ❖ To analyse the contemporary legal and policy scenario in relating to water and sanitation in India.
- ❖ To route out the witnessed factors yet controversial in impending and challenging to the right to water and sanitation.
- ❖ To emphasis the mechanism which Philip the right holders be enhanced to claim their rights.

## METODOLOGY

In this paper the author has contested the serious academic methodological exercise, that is, "the fundamental right based approach" oriented one. Basically, it is a combination of both legal and social concept approach. In addressing the research objectives in this study normative legal research method is used. In this present study fundamental right theory based approach is applied. the fundamental right approach consists with the concept of realizing the precious right and understanding, how to access and claim the right.

## WATER AND SANITATION AND INDIGEOUS COMMUNITY

The impact on Indigenous Peoples of the continued violation of this principle was noted by the 1990 United Nations Global Consultation on the Right to Development, which stated that, "the most destructive and prevalent abuses of Indigenous rights are the direct consequences of development strategies that fail to respect their fundamental right of self determination" (*International Indian Treaty Council.Pdf*, n.d.). UNESCO, at the 3rd WWF, also found that in order to assure the right to water for Indigenous Peoples, all of their rights should be respected. The Indigenous Declarations from the 3rd and 4th World Water Forums referred to the right of Self Determination and the right to development, among important rights interdependent with the right to water (*International Indian Treaty Council.Pdf*, n.d.).

## POLICY AND LEGAL STANDARDS

In order to ensuring the constitutionally guaranteed fundamental right, Government of India has launched Jal Jeevan Mission (JJM) in August, 2019 which aims at providing potable water at service level of 55 litre per capita per day (lpcd) to every rural household through Functional Household Tap Connection (FHTC) by 2024, in partnership with States, with an outlay of Rs. 3.60 lakh Crore out of which Central share is Rs. 2.08 lakh Crore (*09022021\_180132\_1021205239.Pdf*, n.d.). The FHF coalition organized the Forecasting Healthy Future Global Summit 2023 from March 14th to 16th in Abu Dhabi. The Summit convened diverse stakeholders in the health, climate, and technology sectors to improve collective understanding of the health risks posed by climate change, jointly assessing the implications of disease control and elimination efforts, and moving toward consensus on policy and investment priorities worldwide. On March 15th, day two of the summit, Smt. Vini Mahajan, Secretary of DDWS,

Ministry of Jal Shak , shared her thoughts in a session via video message. The session was on "Safe Drinking Water Against Rapidly Moun ng Obstacles." Changes in water cycle pa erns are making it more difficult to access safe drinking water, mel ng permafrost may unlock long-frozen bacteria, and rising temperatures are generally correlated with increases in enteric diseases, such as E. coli-associated(*JalJeevanSamvad-March-2023-En.Pdf*, n.d.). To achieve the JJ mission in a successful implementation the Government has st up a four-tier institutional mechanism at National ,State ,District and Village level.The level will be like , National level the institutional mechanism would be -National Jal Jeevan Mission. In State level the institutional mechanism would be – State level Mission State Water and Sanitation Mission (SWSM) and District Water and Sanitation Mission (DWSM),Paani Samiti/Village Water &Sanitation Committee (VWSC)/User group in District ans Gram Panchayat Level respectively.

As for as TamiNadu is concerned, Besides renewal and enhancement of current water supply systems, the Government is implementing new schemes to provide protected water supply and house service connections to the citizens. All town panchayats provide 70 litres of water per person per day (LPCD), while the town panchayats having underground sewerage system 275 (UGSS) provide 135 LPCD. Out of 490 town panchayats, 102 town panchayats are covered by stand-alone water supply schemes and 373 are covered by Combined water supply schemes (CWSS) maintained by TWAD Board(*Maws\_e\_pn\_2023\_24.Pdf*, n.d.).

The remaining town panchayats are being provided through local sources. In a holistic manner, it is aimed to provide universal coverage of water supply by providing functional tap connections to all households. This will be achieved through circular economy of water by effecting water sources conservation, rejuvenation of water bodies and wells, recycle / reuse of treated used water and rainwater harvesting by involving community at large. Meeting 20% of water demand through recycled water, reducing non-revenue water to less than 20% and rejuvenation of water bodies are major water related reforms that are being implemented in town panchayats functions such as sanitation, solid waste management and other assets management like community hall and issuance of building permits etc(*Maws\_e\_pn\_2023\_24.Pdf*, n.d.). The CMWSSB has introduced a mobile app ‘Metro Water’ enabling consumers to register their water / sewerage related complaints to the concerned officers at any time, from any place through their smart mobile phones. ‘Metro Water’ app can be downloaded from Google play store(*Maws\_e\_pn\_2023\_24.Pdf*, n.d.). A 24x7 monitoring and control centre (MCC) has been established at a cost of Rs.1.13 crore and was inaugurated by the Hon’ble Chief Minister on 13.03.2023. The MCC has a 24 x 7 grievance redressal cell as well as a video wall to monitor the important activities of the Board including GPS tracking of mobile water lorries and sewer maintenance vehicles, SCADA monitoring of STP, TTRO plants, desalination plants and monitoring of water filling points through CCTV cameras. Consumers can dial 044-45674567 (20 lines) and toll free number 1916 and register their complaints. The registered complaints are immediately transferred online and also by SMS to the respective Depot Engineers to rectify the defects. Accordingly, rectification of the defects is being done immediately(*Maws\_e\_pn\_2023\_24.Pdf*, n.d.).

The UN 2023 Water Conference: The Conference inspired thousands of stakeholders to organize hundreds of side events at UN Headquarters, as well as during New York Water Week. Civil society, the private sector and scientists delivered a resounding message for a paradigm shift, working together for a sustainable and more socially balanced water future in an enabling, transformative environment. The Water Conference marked the starting point of a new narrative in sustainable development – one built on understanding, a revaluation of water, and the development of new water cooperation models(Greer, n.d.). Standing Committee on Water Resources (2022-23) report, on action taken by the Government on the Recommendation/Observation and it’s Sixteenth Report was presented to Lok Sabha on 20.03.2022. the report contained 18 Observations and the action which has been taken by Governments .Further, the Committee were surprised to note that bigger States like Karnataka, Andhra Pradesh, Punjab, Chhattisgarh,

Maharashtra, Rajasthan, Uttar Pradesh, Jharkhand, West Bengal and Tamil Nadu have utilized below 25 % of Central allocation(17\_Water\_Resources\_19.Pdf, n.d.).

#### JUDICIARY'S STANDOUT ACHIEVEMENTS –“ THE VALUATION – OVER -THE VALUABLE RIGHTS

It is the current jurisprudential scenario that by looking at the judicial verdicts the reason provided was, “ the right to life includes right to water”. Which could be accepted as an essential feature of the faith throughout the constitution. This logic never can be frozen. Even It is not expressly stated as a fundamental right, it has been interpreted in the line with Article 21 by the court. It is the duty boundedness of the state that it has to provide water and sanitation if it is a failure on the part of the State then that would be deterioration of right to life and it turn invoke the people right to remedy under Article 32 of the Indian constitution in the name of right to water as social asset. as for as the court's interpretation is concerned it is a prominent scenario that is in the judgment in Narmada Bachao Andolan case, the court emphasised that, “*the right to water is a right to life , and thus a fundamrnta right “the court also Clearly said “state is responsible for providing clean drinking water to the citizens.*<sup>1</sup>”

in addition to article 21, articles 39(b) and 47 deal with the very same concept of duty cast upon the state. Article 39(b), which mandates that the state should direct its policy which ensures and secure the material resources in general should be distributed for the common good. Article 47, which cast upon the duty on the State that it has to raise the level of nutrition and standard of living and to improve public health.

In Narmata Bachao Andolan v. Union of India where Kirpa, J observed about the importance of water right that , *It is a matter of great concern that even after half a century of freedom, water is not available to all citizens even for their basic drinking necessity violating the human right resolution of U.N.O. and Article 21 of the Constitution of India. Water in the rivers of India has great potentiality to change the miserable condition of the arid, drought-prone and border areas of India*<sup>2</sup>.

The court in M.C.Mehtav.Kamal Nath vehemently declared that public trust doctrine is a part of our jurisprudence. The State as the trustee, being given to the powers to bring in the right of beneficiaries, would be deemed fit to open of our all-natural resources to the general public at large being the beneficiary of congregational worshiping of the natural resources<sup>3</sup>.

The Supreme Court of India declared, in Municipal Council, Ratlam v. Shri Vardhichand & Others<sup>4</sup> that, “*A responsible municipal council constituted for the precise purpose of preserving public health and providing better finances cannot run away from its principal duty by pleading financial inability. Decency and dignity are nonnegotiable facets of human rights and are a first charge on local self-governing bodies. Similarly, providing drainage systems not pompous and attractive, but in working condition and sufficient to meet the needs of the people-cannot be evaded if the municipality is to justify its existence*”.

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<sup>1</sup>Narmada Bachao Andolan v. Union of India (2000) 10 SCC664.

<sup>2</sup>Narmata Bachao Andolan v. Union of India

<sup>3</sup>M.C.Mehtav.Kamal Nath ,1996

<sup>4</sup>Municipal Council, Ratlam v. Shri Vardhichand & Others, 1980

It is being consistently clear that the duty-bearer should be a duty bound to determine this valuable right as a purely theological issues and that a progressive nation like India practice it in consistent with the constitutional ethos and values irrespective of their budgetary obligation. The plan of action on the part of the State will pervasively fulfil the which is the obligation to implementing the plan with non-discriminatory manner. Full adequacy the awareness of the right-holders about their right will make them empowered to claim their rights and also makes the duty-holders to realise their accountability and responsibility that is why there should be participatory platform which is the eminent scenario that is needed.

## CONCLUSION

In examining the legal impediments and the challenges in realizing the inherent precious right which is yet to be the issue of State while offering an essential means to achieve this objective to guarantee water and sanitation in India, and the mechanisms can be improved through the prisms of constitutionally guaranteed right based approaches. innovative and transformative developmental oriented solution would be required to face the challenges. Government's stock response to this crises shows the regime is in bad light that has been one of silence . A concrete reaction by securing substantial and undisputed rights by nature is really a close to normalcy. It is the duty bound scenario of the state which would set up and upgrade the drinking water testing laboratories for water quality. It is not done with it the mater but to continuous review the functioning of those testing laboratories and has to take proper action for the necessary smooth functioning of the services to the general public.

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