

Water – A Constitutional Right
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Annual Day Celebrations of the IWWA – Ahmedabad Centre on 26/02/2017

Summary:

Water is essential for human life. It is therefore said that water is life. Water is therefore considered as an essential Human Right. Constitution of India has enshrined various Rights in the form of Fundamental Rights. There is no specific Constitutional Provision defining access to safe and adequate drinking water as a Fundamental Right. However, Article 21 of Constitution of India confers “Right to Life” as a Fundamental Right. People of India, when deprived of “Right to Life” have a remedy to approach the State High Courts and the Supreme Court of India under Article 226 and Article 32 respectively. Supreme Court of India, while interpreting Article 21 of the Constitution enunciated the Principle of “Quality Life”. Water is essential for survival of human life and therefore it has been declared as an essential ingredient of “Quality Life”. The paper deals with the declarations made by the United Nations with regard to Human Rights as well as the Principles carved out and put in place case law which clearly defines Right to Clean and Adequate Drinking Water as a part of Article 21 of the Chapter on Fundamental Rights of the Constitution of India.

1. Preamble:

1.1 Constitution of India:

The Republic of India, is governed by the Constitution of India which is the finest Constitutional Law framed by the Master Minds who were members of the Constitutional Assembly, based on the study of World Constitutions which are existence, written or unwritten. The people of India have developed and put in place the Constitution for governance of the Indian Republic with three key objectives i.e. security of life, liberty and pursuit of happiness. The Constitution of India has also carved out and defined Fundamental Rights which are the key stone of the Arc of the Constitution of India. The Constitutional Declaration of Fundamental Rights will be toothless unless a mechanism and machinery for the enforcement of these rights which are almost in nature of Human Rights. The Constitution of India has, therefore, also prescribed for measures to take appropriate proceedings in the High Courts and Supreme Court for enforcement of Fundamental Rights.

1.2 Article 21 of the Constitution of India

Article 21 of the Constitution of India provides for protection of Human Life and Personal Liberty by saying that **“No Person shall be deprived of his life or personal liberty except according to procedure established by law”**. Protection of Human Life as enshrined in the Constitution of India as a Fundamental Right speaks about **“Protection”**. The larger question that has been on the anvil of debate is whether **“Right to get Clean & Safe Drinking Water”** is also a part of the Fundamental Right guaranteed to the people of India as a part of the Article 21 of the Constitution of India. The Author as a Water Sector Engineer and also a Lawyer has tried to inculcate, combine and place before the audience / readers his thoughts and experience linked with the Constitutional Provisions and the views and case law as put forth by the Supreme Court of India.

2. Human Rights:

2.1 Hindu Dharmashastra

Human Rights have been given paramount importance in the Hindu “Dharmashastra” and “Arthshastra” and other religious and legal treaties of ancient India. The ideal principles of the ancient Indian legal theory was to establish socio legal order free from conflicts, exploitations and miseries. “Vasudhev Kutumbakam” i.e. welfare of all was the fundamental key stone of the ancient Indian jurisprudence. “Kautilya” the author of ancient Indian “Arthshastra” not only affirmed the civil and legal rights first formulated by Manu but also added a number of social and economic rights. “Ashoka” also established the philosophy of “Welfare State” and made provisions for securing basic freedom. “Welfare State” can very well be defined as a State in which people can live and enjoy their life through provision of all the essential amenities necessary for the human being. This brings in the principle of “Quality Life”. Article 21 of the Constitution of India also enunciates the principle of “Quality Life”. Water is essential for survival of human life and therefore it is an essential ingredient of “Quality Life” and therefore “Welfare State” can only be established if the human beings have access to adequate safe drinking water.

2.2 Declaration of Human Rights by the United Nations:

The general assembly of the United Nations adopted and proclaimed universal declaration of Human Rights as under:

“All human beings are born with equal and inalienable rights and fundamental freedoms.” “The United Nations is committed to upholding, promoting, and protecting the human rights of every individual. This commitment stems from the United Nations Charter, which reaffirms the faith of the peoples of the world in fundamental human rights and in the dignity and worth of the human person.”

Human Rights also cover economic and social rights such as:

- Right to an adequate Standard of Living
- The Right to adequate food, housing, water and sanitation.
- The Right you have at work
- The Right to education

Article 3 to the United Nations “Human Right Declaration” mentions that everyone has the Right to Life, Liberty and Security of Person. The same right has been conferred up on the Citizens of India under Article 21 of the Constitution of India. Article 25 of the United Nations “Human Right Declaration” further mentions that everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family including food, clothing, housing, and medical care as well as necessary social services. Supply of water is an essential social service similar to food and therefore getting supply of safe and adequate drinking water is an essential part of the “Human Rights Declaration” as well as Article 21 of Constitution of India.

2.3 Supreme Court of India on Human Rights:

The Supreme Court of India in the matter of Keshavananda Bharati v. State of Kerala, has observed, “The Universal Declaration of Human Rights may not be a legally binding instrument but it shows how India understood the nature of human rights at the time the Constitution was adopted”. The Supreme Court in the matter of Chairman, Railway Board and others v. Mrs. Chandrima, has observed that the Declaration has the international recognition as the Moral Code of Conduct having been adopted by the General Assembly of the United Nations. The applicability of the Universal Declaration of Human Rights and principles thereof may have to be read, if need be, into the domestic jurisprudence. In a number of cases the Declaration has been referred to in the decisions of the Supreme Court and State High Courts. India ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights on March 27, 1979.

Thus, water is essential to human life and therefore and there is no doubt that every human being has a legal right to get adequate safe drinking water to maintain the quality of life. Constitution of India fully supports this principle. The United Nations as a part of United Nation’s Water Conference in 1977 also resolved as under:

“All people, whatever their stage of development and their social and economic conditions have the right to have access to drinking water in quantum and of a quality equal to their basic needs”.

3. Right to clean drinking water – a part of right to a clean environment and health:

The Supreme Court of India has as a part of a large number of decisions pronounced that Right to Life guaranteed under Article 21 of the Constitution of India in its true meaning includes the basic right to food, clothing and shelter. On 23rd July 2001, recognizing the Right to Food, the Supreme Court observed:

“In our opinion, what is of utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them. In case of famine, there may be shortage of food, but here the situation is that amongst plenty there is scarcity. Plenty of food is available, but distribution of the same amongst the very poor and the destitute is scarce and non-existent leading to mal-nourishment, starvation and other related problems”.

Thus, the Supreme Court has specifically articulated the Right to Food. The Right to clean drinking water has been protected as fundamental Right by the Supreme Court of India specifically with regard to cases where water sources were being polluted by the Industries. The Supreme Court has made

supply of clean drinking water as a part of Right to Health. Thus, the Right to Water has been cited as an integral part of the Guarantee of the Right to a Clean Environment. In this context, the Supreme Court in the matter of A.P. Pollution Control Board II vs Prof. M.V. Nayudu (Retd.) And Ors on 1 December, 2000 has observed as under:

"Drinking water is of primary importance in any country. In fact, India is a party to the Resolution of the UNO passed during the United Nations Water Conference in 1977 as under:

"All people, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs." Thus, the right to access to drinking water is fundamental to life and there is a duty on the State under Article 21 to provide clean drinking water to its citizens. Adverting to the above right declared in the aforesaid Resolution, in Narmada Bachao Andolan Vs. Union of India (2000 (7) Scale 34 (at p.124), Kirpal J observed:

"Water is the basic need for the survival of human beings and is part of right of life and human rights as enshrined in Article 21 of the Constitution of India...." There is therefore need to take into account the right to a healthy environment along with the right to sustainable development and balance them. Competing human rights to healthy environment and sustainable development".

The Supreme Court in the matter of Vellore Citizens Welfare Forum vs Union Of India & Ors on 28 August, 1996 has observed as under:

"The Constitutional and statutory provision protect a persons right to fresh air, clean water and pollution free environment, but the source of the right is the inalienable common law right of clean environment".

4. Legal Framework:

4.1 Right to Water:

There has always been a question that is raised by the people as to whether water is a human right, though there has been a view that water is essential for human life and therefore it is a human right. However, "Right to Water" has so far not been directly recognized in the form of a law or legal framework.

The United Nations Development Program (UNDP) in the human development report made a recommendation that countries should make water a human right through an appropriate legal framework. In March 2009 at the World Water Forum, countries have demonstrated a continuing reluctance to recognize water as a human right.

The Supreme Court of India has also considered the question of whether the right to water is an independent human right or as a subsidiary right necessary to achieve other economic and cultural rights. As has been mentioned in the foregoing paragraph, the Constitution of India does not provide a separate and independent fundamental right to water. The right to water has been derived by the Supreme Court and the High Courts from the fundamental right to life of Constitution of India.

The Constitution also provides for economic, social and cultural rights as a part of directive principles of State Policy. Article 39B provides "The State shall, in particular direct its Policy towards securing the ownership and control of material resources of the community and its distribution to meet with the common good".

4.2 Lack of National Law on Water in India:

India has so far not been able to put in place a law or legal framework establishing the "Right to Water". There is no national law of water in India. Constitutionally water has been considered as a State subject and therefore the onus of developing and putting place a law with a legal framework for water lies with the State Governments.

The Government of India had come up with "National Water Policy" which was an executive action but not a legal framework. Some States have also formulated State Water Policy. This also is an executive action and not a law. Thus, fundamental right to water has not been evolved through

legislative action but through judicial interpretation. As has been stated herein above, the Supreme Court in the matter of *Narmada Bachao Andolan Vs. Union of India (2000 (7) Scale 34 (at p.124)*, the Supreme Court has come up with a judicial interpretation that “all people whatever their stage of development and their social and economic conditions have the right to access to drinking water in quantum and of a quality equal to their basic needs”. To enforce it is necessary to have water as a fundamental right as a part of the Constitution. The national commission that reviewed the Constitution in its report of 2002 recommended that a new article 30D be inserted in the Constitution providing that “every person shall have the right to have safe drinking water”. However, no action has been taken by the Government so far in this regard.

There has been a felt need of enacting a law with regard to setting up of “Water Regulatory Authorities” in the States. Many states have carried out certain studies through consultants. The reports have recommended setting up of the “Water Regulatory Authorities”. However, most of the reports are still lying on the shelves on the Government Departments without any concrete thought or action on the recommendations.

4.3 Water Tariff Mechanism & Service Delivery:

Thoughts and theories with regard to putting in place a “Water Tariff Mechanism” so as to generate the costs of at least Operation and Maintenance through Consumer Tariffs have been on the anvil of the discussion and deliberations. Project Funding Authorities like the World Bank and Asian Development Bank have also made this requirement as a part of covenants contained in the lending / credit agreements. However, nothing concrete has emerged as water and water charges are considered to be politically sensitive. Politicians and Administrators most of the time say that people do not want to pay for water, as water is so far not accepted as a “Commercial Commodity”. It is not that people are not willing to pay for water in the manner they pay for other services like electricity, telecom etc. The issue is that service delivery and reliability in the water sector is still a major issue. Unless the service delivery and reliability of supply is guaranteed or at least adequately ensured, willingness to pay for water will not be there. The political philosophy is that the poor do not want to pay for water. However, this is not the case as in fact the poor and the middle class do pay and the fact is that the rich consume maximum water in their houses and commercial places and pay minimum towards the costs. All these issues which are socio political can always be resolved through “Water Law” and a legislative framework.

5. Status of Service delivery:

5.1 Status:

Official statistics with regard to the access to safe drinking water as available on record brings out that as of 1981, 75.1% of the urban households in 35 Indian States had access to safe drinking water. The percentage of access to water in case of rural households was 26.5%. In the year 2011, 91.4% & 82.7% of the urban and rural households respectively had access to safe drinking water.

The National Drinking Water Mission as its Goal 4, aiming at improving water use efficiency by 20% recommends for providing adequate funds for operation and maintenance as well as promotion of Water Regulatory Authorities for ensuring equitable water distribution. Though, the numbers on record give a rosy picture of coverage, the fact is different. A report made out by “Tata Energy Research Institute” (TERI) termed as “Green Growth and Water sector in India” mentions as under:

“The Government of India has formulated various policies relevant to green growth. Green growth development in the water sector mandates several policy and governance initiatives in order to enhance water use efficiency. The National Water Policy 2012 (NWP 2012) clearly states that water needs to be managed as a common pool community resource that is held by the State under the public trust doctrine to ensure equitable and sustainable development for all.

India is moving towards perennial water shortage. The current per-capita water availability is estimated at around 1720.29 m³ per capita according to data from the Central Water Commission of India. India has been ranked 133 (Out of total of 182 countries) in terms of total renewable per capita water resources. The total water demand is projected to increase by 22% by 2025, and 32% by 2050 (Amarasinghe et al., 2007). A major part of the additional water demand will come from the domestic and industrial sectors. The water demands of the domestic and industrial sectors will account for 8% and 11% of the total water demand by 2025. There is also a huge disparity in water supply in urban

and rural areas. Unless a strong policy initiative is taken up at the national as well as state level, the water sector scenario is expected to worsen”.

5.2 **Millennium Development Goals:**

The “Millennium Development Goals” which aim at reducing global poverty by 2015 as a part of Target 10 provides “**To Halve by 2015, from 1990 levels, the proportion of people without sustainable access to safe drinking water and basic sanitation**”. All countries including India have accepted the goals. Drinking water in India is an issue that evokes strong response in the electoral political discourse of the Country, where election promises have drinking water as a top priority. Large financial resources have been allocated as a part of the National and the State plans and budgets. However, service delivery, sustainability, operation and maintenance and reliability of supply has always been a major issue. Physical and financial targets have been set and monitored. The fact is that the governance systems at the National and State level as well as at the level of the Local Self Government run after achieving the numbers either in terms of setting up of physical infrastructure or spending financial allocations. There is hardly any effective mechanism to enforce service delivery efficiency, effective operation and maintenance and reliability of supply.

5.3 **Operational Management & Lack of Resources:**

The fact on record is that there are heavy leakages to the extent of 20-30% from the transmission of water and distribution systems in case of urban water supply. State of the Art water treatment plants have been set up with huge financial investments. However, the operation and maintenance of these plants is so inefficient that they remain almost as non-performing assets. The pumping systems also do not function at the desired level of efficiency and performance leading to heavy costs in terms of consumption of power without reliability of supply. Same is the case with sewage collection, treatment and disposal.

The urban and rural local bodies always come up with an excuse that the financial outlays meet with the capital expenditure. However, there are no funds in the coffers of these local authorities which include Municipal Corporations, Municipal Bodies and Panchayati Raj institutions. The community suffers in terms of non-reliability of supply, in adequate supply, in appropriate quality of water resulting into health issues. Inequity in supply to different areas within the City and cornering of most of the available water for the richer and elite residential areas is a critical issue. In this scenario the issues are more complex than simply lack of political will or increasing tariffs to recover the O & M cost. If inequity in water supply is to continue, the poorer communities will not pay for improved infrastructure and efficient maintenance of water supply systems.

5.4 **Supreme Court Decisions on States responsibility of supply of safe and adequate drinking water as a Human Right:**

In this context, it would be worthwhile to refer to some of the classic cases cited hereunder:

a) **Gautam Uzir & Anr. v. Gauhati Municipal Corpn. 1999 (3) GLT 110**

“9. We find that this is the state of affairs that the Corporation is alive to its responsibility and also its remedy to certain extent by arguing its own resources, which is also acknowledged by the State Government; but from the stand taken by the two it appears that the Corporation is continuing with the taxes fixed 25 years ago and the Corporation is a stand that the required approval is to come from the State Government.

10. Water, and clean water, is so essential for life. Needless to observe that it attracts the provisions of Article 21 of the Constitution. Hence, heavy responsibility is also laid on the State Government in this regard, apart from the Municipal Corporation. We feel that before making huge projects of hundreds of crores of rupees and approaching different bodies and Governments, including Japan, France and the World Bank, some genuine effort should have been made by the Corporation itself or the State Government to mitigate this malady as far as it could be possible within its means. The smaller the schemes requiring smaller amount of fund, which could be managed and raised, should have been put into service to meet the situation. But no serious interest seems to have been taken in that direction by either of the bodies responsible for this purpose. The projects always seem to be very expensive, which is also evident from the fact that none has come forward to help”.

b) **Municipal Council, Ratlam vs Shri Vardhichand & Ors on 29 July, 1980**

“10. 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”.

c) Chameli Singh vs State of U.P on 15 December, 1995

“8. In any organized society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to live guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilized society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights. Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation”.

d) Delhi Water Supply & Sewage ... vs State Of Haryana & Ors on 29 February, 1996 SCC 572 : (AIR 1996 SC 2992)

“Water is a gift of nature. Human hand cannot be permitted to convert this bounty into a curse, an oppression. The primary use to which water is put being drinking, it would be mocking nature to force the people who live on the bank of a river to remain thirsty.” The Supreme Court further observed that “drinking is the most beneficial use of water and this need is so paramount that it cannot be made, subservient to any other use of water, like irrigation. So the right to use of water for domestic purpose would prevail over other needs.”

6. Remedies to ensure enforcement of water as a Human and Constitutional Right:

6.1 Writ Petitions:

The Constitution of India under Article 32 provides as under:

“32. Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part

(3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution”

Similarly, the Constitution under Article 226 provides as under:

“226. Power of High Courts to issue certain writs

(1) Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories”.

According to these Constitutional provisions, if any of the water utilities, Government Departments, Municipal Corporations, Municipal Bodies fail in their duty to supply safe and adequate drinking water, the consumers have a remedy to file a Public Interest Litigation praying the High Court or the Supreme Court to direct the concerned authorities to make adequate and efficient arrangements for

supply of adequate and safe drinking water. The decisions of the Supreme Court and the High Courts cited herein above are all outcomes of Public Interest Litigations filed by consumer, NGOs and Environmental Activists.

6.2 Human Rights Protection Through Public Interest Litigation

- “Public Interest Litigation” is not defined under any statute or any act.
- Public Interest Litigation means a litigation which is filed in a court of law for the protection of public interest.
- PIL (Public Interest Litigation) is filed in the court of law by court itself or by the private party; not by the aggrieved party.

A PIL can be filed if the following conditions are fulfilled:-

- There must be a public injury or public wrong caused by the wrongful act or omission of the state or public authority.
- It is for the enforcement of the basic human rights of weaker sections of the community whose fundamental and constitutional rights have been infringed.
- It must not be frivolous litigation by persons having vested interests.

PIL can be filed in the Supreme Court or High court in following ways:-

- By sending letter petitions with relevant facts and documents to the Chief Justice of the concerned court.
- By directly filing the PIL in the court through the Free Legal Service Committee of the court.
- By directly filing the case with the help of any PIL lawyer. By filing the case through NGOs or PIL firms.
- The concept of Public Interest Litigation (PIL) is in consonance with the principles enshrined in Article 39A of the Constitution of India to protect and deliver prompt social justice with the help of law.
- Article 32 of the Indian Constitution contains a tool which joins the public with judiciary.
- The member of the public, who may be a NGO, an institution or an individual, has the right to file suit in PIL by the courts through judicial activism.

7. National Human Rights Commission:

The Government of India has enacted a law called “Protection of Human Rights Act 1993”. The Act under Section 2(d) defines “Human Rights” as under:

“Human Rights” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India”.

The National Human Rights Commission has been set up by the Government of India under Section 3 of the 1993 Act for better protection of Human Rights. The functions of National Human Rights Commission (NHRC) have been set out in Section 12 of the 1993 Act as under:

“12. Functions of the Commission

The Commission shall perform all or any of the following functions, namely:-

- a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf [or on a direction or order of any court]1, into complaint of
 - i. violation of human rights or abetment thereof; or*
 - ii. negligence in the prevention of such violation, by a public servant;**
- b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;*
- c) visit, notwithstanding anything contained in any other law for the time being in force, any jail or other institution under the control of the State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, for the study of the living conditions of the inmates thereof and make recommendations thereon to the Government;*
- d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;*
- e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;*

- f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;
- g) undertake and promote research in the field of human rights;
- h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- i) encourage the efforts of non-governmental organizations and institutions working in the field of human rights;
- j) such other functions as it may consider necessary for the protection of human rights”.

The Supreme Court of India in the matter of *Paramjit Kaur V/s. State of Punjab & Others* (1999) 2 SCC 131 has held as under:

“10. The Commission headed by a former Chief Justice of India, is a unique expert body in itself. Fundamental Rights, contained in Part III of the Constitution of India, represent the basic human rights possessed by every human being in this world inhabited by people of different continents, countries, castes, colours and religions. The country, the colour and the religion may have divided them into different groups but as human beings, they are all one and possess the same rights.

11. The Chairman of the Commission, in his capacity as a Judge of the High Court and then as a Judge of this Court and also as Chief Justice of India, and so also two other members who have held high Judicial Offices as Chief Justice of the High Courts, have throughout their tenure, considered, expounded and enforced the Fundamental Rights and are, in their own way, experts in the field. The Commission, therefore, is truly an expert body to which a reference has been made by this Court in the instant case”.

Thus, a petition before the National Human Rights Commission for enforcement of “Right to Water” as a part of Article 21 of the Constitution of India “Right to Life” is also a remedy available for enforcement of the Right. The Supreme Court of India also has the power to issue directions to the National Human Rights Commission to inquire into and proposed actions against violation of this Human Rights while hearing a Petition under Article 32 of the Constitution.

8. Conclusion:

As has been stated herein above, India does not have a very specific and enforceable Water Legislation, making provisions for regulation, control and efficient management of drinking water services considering water as a fundamental human right. The case law established by the Supreme Court of India has declared water as an essential human right derived from “Right to Life” as enshrined under Article 21 of the Constitution of India. Constitutionally water is considered as a State subject. National and State Water Policies have been put in place as a part of the National and State executive actions. These are not in the form of an enforceable legislation and are susceptible to changes with change of political governments and governance systems. Thus, there is an urgent need to in-act and put in place a Federal Law on water along with State Laws for regulation, control and management of the drinking water sector considering water as essential Human Right.

It is also critically urgent to set up “Water Regulatory Authorities” with adequate powers and authority for regulation and control of drinking water services. The Institutional frame work for providing drinking water services in the States is quite fragmented. Municipal Corporations, Municipal Bodies, State Boards and Corporations, Panchyati Raj Institutions, Irrigation Departments, PHED and Ground Water Boards are all involved in management of water as a resource. All these institutions need to be governed and regulated in terms of service delivery, efficient operation and maintenance, sustainability and reliability as well as proper and affordable water pricing structure. This can be done by a Water Regulatory Authorities.

Professional bodies like Indian Water Works Association have a responsibility to work towards this need and follow up with the Govt. of India and the States to bring in a legislation clearly and specifically defining drinking water and sanitation as a basic and fundamental human right. If this requires Constitutional amendment, a Constitutional Amendment Bill can also be moved. The Professional bodies should also endeavor to raise Public Interest Litigation specific to the defects and inefficiency in the service delivery relying on the Article 21 of the Constitution of India and the case

law considering water as an essential ingredient for "Quality Life" as guaranteed under this Article. They should also take up programs to generate awareness amongst the Rural and Urban Community to understand and appreciate that access to safe and adequate drinking is an essential Human Right and even in the absence of specific Water Laws declaring water as a Constitutional Right, can take up the remedy before the Supreme Court and the High Courts of the Country for enforcement of this Human Right as interpreted under and derived from the Article 21 of the Constitution of India.