



Water crisis, water governance and right to clean water in India: An Indian Perspective

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Abstract- water crisis, governance, and the right to clean water are distinct conceptual categories but interrelated. The multifaceted water crisis in multiple areas raises the question of effective governance of scarce natural resources for development and survival needs. It has cultural and spiritual importance in India's social and cultural milieu.

As a doctrinal study, this paper will examine and analyse various facets of the water crisis, governance, and conceptualization of the right to clean water in the broad framework of India's cultural and ecological perspectives as practiced in India. This perspective and evaluative framework are undoubtedly a departure from looking at water problems and solutions from external perspectives. This paper will incorporate broader Indian legal and philosophical approaches as an evaluative framework for understanding and solving water-related issues in India. It will include the judiciary's role in construing the right to clean water as a fundamental right amidst the water crisis and environmental pollution.

This study will critically examine and evaluate, intentionally or unintentionally, the missing elements of the Indian self-governance framework in development, rights, and justice discourse, which were crucial for the sustainable use of natural resources, including water, and making a solid and self-reliant nation. Thus, this paper, in conclusion, recommends adopting the Indian self-governance perspective as a policy intervention for the efficient and effective use of natural resources, including water, for human and spiritual needs as envisaged under the Indian way of life.

Keywords: water crisis, governance, right to clean water, Indian perspective, right to life.

I. Introduction

In India's social and cultural milieu, water is not merely regarded as an economic good for consumption in various ways but also has profound and pervasive importance in cultural and social life. The centrality of water in Indian life has been recognised since time immemorial as one of the

essential ingredients of life itself. The vitality is reflected in ancient philosopher and scholar Kanad's famous shloka '*Chiti Jal Pawak Gangan Samir'*, which are fundamental elements of life. Water is one of the five fundamental elements of life, without which life cannot even be imagined. The centrality of water in life is recognised as a spiritual and religious aspect of life. The rivers were regarded as sources of economic significance and as a Goddess. This religious and spiritual aspect reflects the river as a site of fertility and multiple economic activities, as well as spiritual activities in the form of religious practices of using pure water as an essential element in all kinds of religious and ritualistic activities of humans.

The centrality given to water in human life by ancient scholars underscores the importance of water as a civilizational need. It is a historically proven fact that the greatness and decline of all major civilisations are intertwined with significant river basin systems. The relationship of human society with water resources and effective or ineffective water management determined the rise and fall of the empire as well as prosperity and social-intellectual developments (Solomon 2012, 52–58). Thus, considering ancient India's legal codes and social-cultural order regarding religious and spiritual or ethical codes of human life, water was regarded as a means of excellent and ethical life. The use of water in the lifetime of human beings and beyond for the salvation of forefathers reflects sustainable and need-based use of water rather than means of economic exploitation and profit-making, which are virtues and aims of capitalist notions of development. The ancient Indian notions of treating all natural resources in personified forms of Gods/Goddesses were not only limited to particular religious orders but also recognised in almost all religious and spiritual orders, underscoring the significance and scientific importance of natural and ecological resources. This approach towards ecological resources, in general, and water resources, in particular, specifies and emphasises the philosophical approach Gandhi took that nature has sufficient



resources and capacity to fulfil the needs of human beings, but not greed. This philosophical and ethical line of argument was also reflected in the Brundtland Report of 1987¹ on sustainable development, which says that development planning should consider future generations' needs while fulfilling the present generation's needs. This approach to development has been further recognised in terms of justice in Prof. Sen's Ideas of Justice (2009), which emphasises the role of the environment and natural resources in the capability building of individuals, making individuals capable of doing what they value. Thus, ecological resources in general and water in particular, in their use and management, have been recognised and valued in terms of their intrinsic and inherent value for life as the social goal and ethical values. Hence, they are not merely economic goods for exploitation and profit-making. Thus, the term human rights can be contested to exist. Still, the values and ethics of human rights and human duty regarding Dharma and Dharma-compliant behaviour were recognised and promoted as ethical human values. This society-oriented view of Indian intellectual tradition and values is also found in ancient European philosophy in the Aristotelian notion of justice, where he emphasised the importance of the right of people with telos (purpose or end). In essence, the rights of individuals in the form of freedom and liberty should be subject to the common interest of society.

Thus, the line of philosophy was reflected in various ways and techniques of managing water resources in different parts of the country, which is also reflected in the pluralism of water management. However, due to the adoption and use of notions of Western development in India, the development planning perhaps missed the intellectual and ethical framework of managing and using natural and ecological resources. It unnecessarily focused on received notions of the model of development and exploitation of environmental and natural resources.

Thus, this seeks to review Indian practices of development and water management in the broad framework of the water crisis, governance, and right to clean water, and propose specific measures for better handling of water resources as vital life resources in order to prevent water crisis, better governance and minimum protection of water to all as a process of governance. Thus, self-governance

¹ "Report of the World Commission on Environment and Development: Our Common Future." January 30, 2023.
<https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf>.

from the Indian perspective might be rightly termed as *'a set of laws, rules, knowledge, procedures, customs, and practices, strategies, process, decision-making by interested stakeholders in dealing with the whole range of environmental issues and their solutions coming from Indian legal and philosophical materials in the broad framework of environmental governance in India.'*

Indian approaches to water in different temporality-For understanding and appreciating the Indian perspective on water crisis, water governance, and the right to clean water, the Indian approaches might be studied in the following temporalities:

The Indian approach to water in the ancient period- water pervades every walk of life in ancient India. Treating rivers and water resources as personified form of God/Goddess, as well as the ancient story of the origin of the Holy River Ganga, reflects the unprecedented belief of ancient people regarding the importance and significance of water in various walks of life. The universal use of water, such as drinking water, religious and cultural use of water, agricultural activities, transportation, and navigation, underscores the importance of water in Indian life, much beyond thinking in terms of economic resources. Thus, seeing water from a spiritual, cultural, and religious sense is a more comprehensive and judicious view of water than just as a financial resource for development and profit gains. Thus, an integrated, thorough, and environmentally friendly view of water is the specific characteristic of Indian thinking about water. This integrated and comprehensive approach to water was an Indian phenomenon across the Indian subcontinent, with regional variations in practice and use. This Indian way of life and approach to the environment were further recognised in religious texts and practices during different times. Non-violence and compassion for living beings and natural resources are other facets of Indian environmentalism and governance based on salvation rather than consumerism and materialism (Singh et al. 2020).

The Indian approach to water in the medieval period- medieval India is closely linked with the secular aspects of ancient India regarding managing water resources and their efficient use in multiple areas of activity. The management and use of water resources were an integral part of the material and spiritual life of Indians during this period, and indigenous water management skills and techniques were adopted, even after the Mughals came from outside. The different methods used by the Mughals, such as the canal system, *jalasaya* system, tank systems, dam systems, wells, and step-wells, are



examples of the effective and efficient water management, allocation, and distribution system and its subsequent effects on the economic development and prosperity of people. It is now a fact that the Indian subcontinent, since time immemorial, has been endowed with abundant natural resources, which are sufficient for fulfilling the needs of the Indian people, and have contributed immensely to the economic development and balance of trade in India. This natural endowment made India an economic powerhouse during the ancient and medieval periods until the Britishers came to India and started exploiting natural resources for their greed and profit-oriented growth, which was antithetical to India's philosophical notion of life, development, and self-governance (Ramkrishna 2020).

The Indian approach to water in the British period- when the British East India Company established its rule in India, the Indian subcontinent and its people were endowed with substantial natural resources, cheap labour, and a market. The first Industrial Revolution, which happened in the 1750s, was supported by the classical liberal ideas, the expansion of markets, and the exploitation of natural resources for the private gain of the British East India Company and private capitalists. The exploitation of natural resources happened through the use of water and water navigation. Water contributed significantly to the empire's expansion and the trade imbalance between the Indian and external worlds. The celebrated notions of liberty, freedom, and democracy were meant for the benefit of colonial masters but were indeed not available for the Indian people and Indian entrepreneurs. The British exploitation of resources, whether in terms of developing a canal system or using water for industrial and navigational purposes, was unreasonably justified in terms of development.

In contrast, the Indian logic of a harmonious relationship with nature and water was an unscientific belief and faith. The dominant ideology of development and growth aligned with the exploitation of natural resources and cheap labour, the use of India as the market for British manufactured goods, traditional and ancient notions of peaceful and harmonious existence of people with nature in general, and water in particular. The received notion of development and growth, inspired by profit motives and the exploitation of natural resources of colonial peoples, caused severe havoc to the centuries-old bond of people with nature. The British era legislation was enacted to prevent and restrict tribal and nomadic peoples' free access to forests and natural resources while reserving the

forests and other resources in the name of the government. This use of law and legal machinery led to the all-around exploitation and degradation of natural resources and pollution of water resources across the Indian subcontinent. Hence, it may be perhaps rightly argued that the notion of rights, justice, development, growth, and democracy by the British colonisers or others were colourable exercises to exploit the natural resources and people of India. Moreover, it discredits the traditional and environmentally friendly approach of the Indians' belief that nature is sufficient to fulfil human beings' needs.

The Indian approach after Independence- the Indian Planning Committee, under the chairmanship of Pandit Jawaharlal Nehru, recommended a mixed economy model for India based on liberal notions of fundamental rights and the utilitarian notion of welfare economics, as well as a planning approach of development influenced by the Soviet Union. The influence of liberal and socialist thinking on the Indian planning process and leadership was such that the Swadeshi idea of self-governance based on the ethical and philosophical notion of ethical and moral development, promoting India-made goods and services, was somehow underestimated and discouraged without an appreciation of the inherent and intrinsic value of an environmentally and ecologically sustainable notion of duty-oriented rights and justice. The ancient notion of right and justice is reflected in the theory of *karma* and *kartavya*. The ancient philosophical notion of self-governance in general and environmental governance, in particular, emphasises the society-oriented duty of individuals, contrary to much emphasis on individual rights based on the libertarian notion of rights and justice. The libertarian notion of right and justice emphasised individualism, which is the essence of the liberal capitalist development model. The overemphasis on individual liberty and freedom does not agree with the philosophy of Indian life, which emphasises social control and the duty-oriented life of individuals. The ethical and philosophical notion of right and justice focuses on the well-being of society. However, the Indian development model and planners were more influenced by the notion of industrialisation-based development, operating with the notion of private gains without considering the detrimental effects on natural resources and the lives of human beings. The theoretical framework of the radical communists and socialists during and after the independence regarding development planning and resource management was more influenced by Western notions, which failed to recognise the



diverse and alternative philosophical and ethical streams present in academic, intellectual, and moral debates.

The western notions of rights and liberties, as contained in Part III of the Constitutional document, which is based mainly on libertarian and utilitarian notions, dominated the legal discourse framework in India. This domination of libertarian and utilitarian discourse can also be seen in the judicial discourse, where the judiciary as an institution is also an essential pillar of governance, along with other states' and stakeholders' organs. The predominance of libertarian and utilitarian notions, which emphasised rights rather than duties, and individualism rather than community, was a march from the Indian notion of self-governance. The Indian idea of self-governance emphasises duty, society, and an environmentally friendly lifestyle where ethical and spiritual management and the use of natural resources are emphasised. Over-emphasised preference for development and individualism led to thinking of consumerism and the habit of more accumulation for consumption and profit-making of some individuals and corporations. The globalisation, privatisation, liberalisation rhetoric, and dominant role of international organisations stretching the boundaries of their influence promoted consumerism and the market in India and the exploitation of precious natural resources and cheap labour for the profit-making and capital accumulation of the developed and capitalist countries. The profit-making and capital accumulation further resulted in environmental pollution and resource scarcity. This resource exploitation is pushed in the name of development and growth, rights and liberty coming from the West, and supported by international organisations, eclipsing the alternative and reliable model of development and governance. This western development and governance model needs to be more aware of the home-based development model and governance discourse, which emphasises fair and environmentally friendly use of natural resources in terms of duty and spiritual use for survival, not for accumulation and profit motive. Thus, the potential of the self-governance model was enshrined and ingrained in Indian civilisation. Cultural practices were ignored and subjected to the liberal notion of development in which individualism and consumerism are the ruling virtues. The harm to natural resources and human civilisation was not appreciated fully before the 1970s, but till then, irreparable losses to natural resources were incurred and caused climate change. This concern was recognised and expressed internationally at the Stockholm Conference 1972(United Nations 1972).

The critics of this conference emphasise that the Western interest of developed countries also led it, while developing countries like India were struggling to feed their population amidst widespread poverty. Instead of devising local or Indian ways and means to encourage our model of development, the leaders and planners of India sought a solution from the Western model, defying the need to ameliorate and develop our model of development and pattern of use of natural resources.

Western influences and crisis in Indian thought, ignoring the Indian alternative of self-governance, the commercial, economic, and political colonisation of the Indian sub-continent as an ideological project, used the English language and anglicised education as a potent and vital ideological and hegemonic weapon to establish a dominant narrative of capitalist-liberal thought as progressive and democratic as well. However, this patronised ideology by the colonisers was inherently based on the exploitation of natural resources for the British capitalists in particular and European capitalists in general, on the one hand, and the subjugation of indigenous Indian streams of philosophical ideology and narratives, as well as the decentralised and democratic model of self-governance in India. The thinking and conceptualising of the Indian governance framework were negatively termed 'nationalistic, revivalist, status-quoist and parochial' by the Western-educated liberal thinkers and development protagonists. This Western-influenced approach seems to ignore and is inequalitarian to thoughtfully and critically discuss the Indian model of development and self-governance. In the garb of so-called 'enlightened, global and liberal anglicised ideologues', they succeeded in imposing the western-liberal notion of economic development by the use of state apparatus and ideological apparatus, undermining and suppressing the native and indigenous thinking on the environment-friendly use of natural resources, including water resources in India.

The western-liberal development project aligned with the historical realities, which is strongly supported by the historical school of jurisprudence, which emphasises the importance of 'customs and usages' as 'volkegeist' for a society's legal development and governance. The historical school of jurisprudence rightly insisted on considering customs and usages in the conceptualisation and development of law. The environmental governance idea of international organisations also emphasises the significance of local and decentralised practices of environmentally sustainable use and management of natural resources in general and water resource



management in particular. The dominance of Western liberal ideology was reflected in India's planning for the development and exploitation of natural resources in an unsustainable way, resulting in environmental pollution and degradation. The emphasis on individual rights as fundamental rights and less on the duty-bound directive principles of the state policy and collective environmental rights also contributed to the unsustainable and imprudent use of natural resources. The blind emphasis on development without considering the consequences, and centralised command of understanding from the top, undermining and ignoring the local knowledge and practices, resulted in unsustainable use and exploitation of natural resources based on private gain and inequality.

The license raj in post-independent India and the LPG (Liberalisation, Privatisation, and Globalisation) phase of development discourse are much more focused on the development and growth than on the environment-friendly use and the ethical notion of the use of resources for fulfilling the needs of people rather than fulfilling the greed of the people. Thus, these ideological underpinnings of the Western-liberal economic development discourse create a hegemonic narrative in favour of Western countries supported by the governments of Western countries, international organisations, international and national civil society organisations, aid agencies, TV debates, academic writings, and so forth. Like an ideological narrative propagated by Western countries as a panacea, the UN, World Bank, IMF-led sanctions, and the Washington Consensus have hegemonic contents detrimental to the knowledge base, local understanding, indigenous philosophical and ethical, and spiritual goals. Under the garb of development, rights, and justice, these international organisations and their protagonists promote exploiting natural resources, consumerism, profit-making, and market expansion in the name of participatory decision-making and a consent-driven development model. The internal aid agencies and civil society organisations are playing a role in advancing this hegemonic ideological goal over the native and local self-governance model, which is a need-based and eco-friendly use of resources.

In the initial phase of post-Independent India, the judiciary also supported the development model of a new republic based on the mixed economy model of development, where state-sponsored planning had an important role in centralising tendencies in planning and resource allocation for development. The liberal notions of development also influenced the judiciary's history and approaches of the courts regarding rights and

duties, rights, and justice, rather than the duty-based development, rights, and justice. Again, the western notion of development, rights, and justice, as well as the education and training of Indian judges, played a decisive role in imposing the hegemony of the western notion of development and justice on every walk of life and subordinating and undermining the local knowledge, customs, usage, practices, philosophy, ethics, way of managing natural resources as well as environment-friendly self-governance.

Thus, the self-governance model of development emphasises the overhaul of the thinking process from the perspective of the Indian nation and its philosophical, ideological, and ethical underpinnings. The Indian perspectives and broad framework of development based on Indian knowledge, philosophy, ideology, spirituality, and ethics, as well as the creation of institutional mechanisms in tune with this framework, would effectively handle the environmental crisis in general and the water crisis in particular. Therefore, the self-governance model of India provides an essential evaluative framework to see the pre-water crisis scenario in the context of the self-governance model.

Examining the context of the water crisis, the need for governance and recognition of the right to clean water-

India, as the most populous country in the world, has around sixteen per cent of the world's population, while only having seven per cent of the world's water for its population for different purposes. India's population will surpass China's in 2023, creating unprecedented stress on water resources, as expected, if not as a commodity. According to the recent report of the NITI Aayog (NITI Aayog 2018), India is facing the worst water crisis, affecting nearly 600 million people. The unprecedented population growth, declining water table, unsustainable extraction of groundwater, and pollution of water and water sources are creating unimaginable stress on water resources. Since water has intrinsic value in life, people, as a survival need, recognise it as part of a fundamental right, which has severe consequences regarding recognition and execution. In legal terms, people's right to life can only be ensured by ensuring minimum water availability for consumption and other basic needs, as water is one of the basic requirements of life and civilisation (Solomon 2011, 9–52). This also involves the questions of the normative contents, which emphasise how normative contents of a fundamental right could be possibly enforced and how issues of right, justice, equity, accessibility, and affordability to all will be addressed, realising the social,



economic, and political deprivation and disability of right holders (Winkler 2012; Acharya 2014).

The water fault lines and conflicts also highlight the divide between water haves and have-nots. The haves and have-nots result from many variables, but it does not change one thing: the force of water for survival (Solomon2011,367-383). As per the study, water scarcity, water pollution, and unsustainable population growth are affecting everyone in some ways or others, but because of structural reasons, it is affecting most of the poor, rural population, slum dwellers, women, and the marginalised.

The intrinsic value of water in life, scarcity of water, pollution of water, population growth, and failure to provide the minimum quantity of water to the people are possibly the causal links to interpreting constitutional provisions in terms of claimable rights, so that the minimum right of survival could ever be protected by ensuring the right to clean water to all.

The interpretation of the constitutional text of Part III and Part IV underscores the civilizational importance of water in the life of people and society. The history of human civilisation shows the centrality of water in development and the decline of a great civilisation. Abundant availability and effective management, as well as its effective distribution through centralised authority or decentralised mechanisms, as self-governance models, led to the greatness or fall of even a great civilisation. Consequences of severe water scarcity, mismanagement of water resources, and water pollution led to war, crime, violence, internal and external migration, disease, food crises, fall in agricultural growth, and import of essential goods, which might create law and order problems, political upheaval and economic instability. The threat of the water crisis and its impact on human life convinced the experts and academicians that water had become a new oil, with one difference, the latter being that water has no substitute (Solomon2011,367).

Water scarcity, severe water pollution, and climate-change-induced water problems indicate the impending crisis for human civilisation. Some studies also suggest that if the water crisis is not resolved, it will undoubtedly threaten the existence of human society. This will not only cause a threat to life but also cause unrest, violence, migration, conflict, and crime, which will further deteriorate the prospect of a built peaceful, equal, and egalitarian society based on universal human rights values (Solomon2011,9).

The right to clean water is not expressly recognised as a fundamental right in the Constitution

of India, nor has the legislature made any statutory recognition. The right to clean water in India is recognised through judicial interpretation of constitutional law concerning public interest, which emerges out of unparalleled pollution of water by the development activities and unsustainable use of water resources due to failure of or non-performance of statutory duties under the statutory law by the private enterprises or industries in connivance with the executive authorities.

The instrumental role of the judiciary in water governance and development of the right to clean water-

The judiciary's role in environmental governance cannot be answered in a binary of yes/no or something balancing and unbalancing. The constructive and creative role of the judiciary in environmental governance is to be located and analysed in the broad framework of governance mechanism where the judiciary is not merely an institution playing its part as a governance body; instead, it is a part of public space where contested ideas of environmental governance are constructed/deconstructed or contested/de-contested by different stakeholders in term of litigating process and judicial decision making. The role of the judiciary, significantly higher judiciary, is not merely limited to the 'facts in issues' in a particular litigation; rather, it is a place where several approaches of legal principles, development, rights, duties, and philosophy are proposed, argued and contested by litigants and the judges of the constitutional courts on the 'question of law.' The 'question of law' gives ample scope to litigants and judges of the constitutional courts to interpret the constitutional provisions within the broad framework of constitutional philosophy, which is political, economic, social, and cultural. The judicial space also gives immense scope to judges and litigants to use all possible legal loopholes and theoretical approaches to sustain a particular way of order or change the understanding or perception of a specific aspect of governance or the ideology of governance.

The liberal and organic interpretation of Part III and especially Article 21 of the Constitution, beyond the black letter law tradition of positivist interpretation, led to many rights under Article 21. The liberal interpretation of Article 21 of the Constitution and internationally recognised human rights instruments also led to the creation of various rights under Article 21. For example, India's water laws lack recognition of a right to clean water in terms of "rights" in statutory laws (Cullet & Koonan2017,2). The judiciary's creation and recognition of the right to clean water raises the



question of constitutional propriety and legitimacy since policymaking falls under the legislature and the executive. Prof. Sathe rightly mentions that there is no accounting mechanism to know which judicial decisions have been enforced or implemented (Sathe2002,244).

What is crucial over here is that much appreciation of ideology and philosophy of self-governance not found in the judicial decisions. There is a need to restructure the institutional mechanism and the thinking process regarding the normative contents of self-governance. The judicial interpretation, ideology, or narrative has also somehow undermined the alternative of the self-governance model.

Policy initiatives and legal framework for managing water crisis and promoting governance- The primary legislation dealing with water pollution in India is the Prevention of Water Pollution Act, 1974, in particular, and the Environment Protection Act, 1986, as an umbrella law.

The decades of the 70s and 80s were crucial from the perspective of water discourse and governance. In 1983, the Government of India constituted the National Water Resources Council (NWRC) to lay down the National Water Policy (NWP) and review the same from time to time.

1987 India's first National Water Policy (NWP) was announced. This National Water Policy was vital because it regarded water as a prime natural resource, a basic human need, and a national asset. It emphasised the planning and development of water resources from a national perspective. It emphasised the effective information system on water, hydrological unit-based planning and development, transfer of water from water-sufficient regions to water-scarce regions, and water resource management as multiple projects. At the same time, prime consideration will be given to drinking purposes. In the planning and operation of the system, priority will be given to drinking water, irrigation, hydro-power, navigation, and industrial use, respectively, as well as social equity in water distribution for irrigation.

Hence, this policy emphasised water management as a resource for national development from a national perspective. However, this national perspective does not mean the self-government perspective in its spiritual and ethical sense. However, this policy does not deal with the actual normative contents of an enforceable/claimable right as essential aspects of decentralisation, participatory

decision-making, and accountability mechanisms from a rights and self-government perspective.

Endorsing the aims and objectives of India's first National Water Policy (NWP) in 1987, the National Water Resources Council (NWRC) adopted India's second National Water Policy (NWP) in 2002. This second policy was adopted fifteen years after the first National Water Policy (NWP). Since 1987, some historical and policy changes have occurred at the policy level. For the first time, the National Water Policy (NWP), 2002, explicitly adopted a participatory approach for all stakeholders in water management. This policy also allowed the private sector to manage water resources at different levels of planning, development, operation, distribution, and waste treatment. It also incorporated the 'polluter pays principle in policy discourse. Therefore, from the perspective of the human right to clean water and its normative contents, the National Water Policy (NWP), 2002, needs to address the concern of the right to clean water effectively and adequately. Merely stating the priority of water use and the participatory mechanism only addresses whether it lays down guidelines to address injustice and inequality in accessing and affording water as an essential good and service. This policy emphasised the national perspective for water management rather than decentralisation and water federalism. Local people, states, and PRIs should be given more say in managing water resources and the supply of fresh water to the people concerned in a broad framework of socio-cultural milieu.

After ten years of the second National Water Policy (NWP) in 2002, the National Water Resources Council passed the third National Water Policy (NWP) in 2012. This National Water Policy is India's most comprehensive and detailed policy on water resource management, including nuances and perspectives on climate change. The National Water Policy aims to consider the current situation relating to water, propose a framework of law and institutions, and plan activities with a unified national perspective. Before adopting the National Water Policy (NWP) in 2012, the Union Government adopted the National Action Plan on Climate Change (NAPCC) in 2008. To deal with climate change issues through eight missions, including the National Water Mission (NWM). Considering the National Water Mission of the National Action Plan on Climate Change and considering the feedback and consultative opinions, the National Water Policy (NWP), 2012, was adopted.

The policy also underscores the importance of enhancing water use, demand management, water use efficiency, water pricing, conservation of river



corridors and water bodies, project planning and implementation, management of drought and flood, bridging the gap of water supply and sanitation between urban areas and rural areas, institutional arrangements, transboundary transfers, research, and training but all these policy recommendations are made from the perspective of water management and as technical material things. The social and cultural aspects and their impact on people do not find a place in them. The human rights perspective on water as a human/fundamental right changes the way of looking at water, not as a scarce resource but as a common good for survival, as well as a means to lead a dignified and healthy life, as conceived in the Constitution of India and contained in decisions/judgments of the constitutional courts. Moreover, this policy does not adequately address the issues of the substantive right to clean water, water justice, accessibility, and affordability as an integral part of the right to clean water, spiritual and ethical lifestyle construed in terms of self-government and integrated development.

Draft Water Framework Law as an integrated framework for handling water issues in India- the policy statement of the National Water Policy, 2012, regarding the framing of the Framework Water Law as an umbrella legislation found in the "Statement of Objects and Reasons" of the Draft Framework Water Law, 2016. The Statement of Objects and Reasons declares to provide:

An Act for an overarching national legal framework with principles of protection, conservation, regulation, and management of water as a vital and stressed natural resource, under which legislation and executive action on water at all levels of governance, as also water-use and water-related actions by persons and their associations, public and private institutions, and bodies corporate of all kinds can take place, and for matters connected in addition to that and incidental to that (Draft Water Law, 2016).

Every detail of the 'Statements of Objects and Reasons' of this Draft Framework Water Law asserts that all significant legal pronouncements by the apex court concerning the right to water and the public trust doctrine should be incorporated. It claims to include the apex court decision in *Narmada Bachao Andolan v. UOI* (2000) 10 SCC 664, which held that "*Water is the basic need for survival of human beings and is part of (sic) right to life and human right as enshrined in Art. 21 of the Constitution of India and can be served only by providing a source of water where there is none.*" This draft legislation also underscores the

legal and constitutional significance of different environmental law principles and the apex court's decision concerning the right to pollution-free water and air as part of a fundamental right under Article 21 (*MC Mehta v. Kamal Nath* 1997 & *Subhash Kumar v. State of Bihar* 1991). This draft law recognises water primarily as a state subject, but it justifies drafting this Bill concerning water as of national importance.

This draft law also proposes to include the principle of subsidiarity as enshrined in the 73rd and 74th Constitutional Amendments. It also consists of the precautionary principle and principles of transparency as elements in water governance. This draft legislation also clarifies the intention of the law to be justiciable (enforceable) in the sense that the executing authorities will have to confirm the principles and priorities laid down in the framework of law, and that deviations can be challenged in the court of law. Moreover, this draft law recognises lofty principles of environmental and water governance. Still, it lacks an Indian perspective of self-governance, which would provide a practical alternative, theoretical and institutional perspective to address the issues of water crisis, water governance and right to clean water discourse.

II. Conclusion and recommendation

The water crisis has emerged as one of the gravest threats to human life, ecological stability, and the survival of civilisations. While both international and national communities have launched numerous policies and programmes to address water scarcity and adapt to climate change, these efforts largely remain anchored within the liberal-capitalist development paradigm — a model that prioritises profit-making and unrestrained exploitation of resources under the guise of "growth" and "development." This approach overlooks an essential truth: sustainable solutions cannot emerge from the framework that has caused the degradation.

India possesses an alternative — a historically rooted self-governance model grounded in the Gandhian ethic of *trusteeship*, duty, and spiritual responsibility toward nature. Unlike the profit-driven approach, this model envisions natural resources as shared trusts — not commodities — whose stewardship must balance ecological sustainability, social equity, and moral accountability. It draws strength from India's civilizational wisdom, where rivers were revered as mothers, forests were sacred, and water was the basis of life.

Reframing governance within this ethos requires that environmental laws, judicial reasoning, and policy



discourse shift from reactive measures toward a conscious revival of the nation's cultural and philosophical traditions of resource management. In doing so, water and other natural resources will not be seen merely as economic goods, but as social, cultural, and spiritual assets — indispensable for the individual's and society's integrated development.

Policy Interventions for Embedding the Self-Governance Model in Water Governance:

1. Reorientation of Laws and Policies – Environmental and water governance should be redesigned by India's self-governance traditions, selectively incorporating global best practices only within this broader philosophical framework.
 2. Commission on Indigenous Resource Management – Establish a national commission to study and revive ancient and medieval Indian resource conservation practices, including water harvesting, community irrigation systems, and sacred ecological traditions.
 3. Recognition of Cultural and Spiritual Value – Water policies must explicitly acknowledge rivers, lakes, and aquifers' spiritual, cultural, and civilizational significance, integrating the wisdom of ancient sages, scholars, and community traditions.
 4. Decentralisation and Intellectual Independence – Reduce over-reliance on Western liberal thought in environmental discourse; prioritise an indigenous governance model rooted in *swaraj* (self-rule) and ecological harmony.
 5. Judicial Reorientation – Courts should interpret environmental rights and duties to embody the spirit of self-governance and honour India's historical environmental stewardship practices.
 6. Institutional Commitment to Self-Governance – The legislature, executive, and judiciary should place the self-governance model at the centre of environmental policymaking, resisting wholesale adoption of external policy prescriptions.
 7. People-Centric Implementation – The success of this model depends on the active participation of society at large, engaging citizens from all walks of life in shared responsibility for resource conservation.
- In Gandhiji's vision, water governance cannot be reduced to a technical or economic challenge. It is a moral and civilizational duty that demands simplicity, restraint, and reverence toward nature. The time has come for India to move beyond imported frameworks and embrace a governance model that springs from its philosophical roots, ensuring that water — the very source of life — is preserved for generations yet unborn.

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