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## **COMBATING THE PROBLEM OF SANITATION AFFECTING THE RIGHT TO HEALTH IN RURAL INDIA: NEED FOR DEVELOPMENT OF AN EFFICIENT MECHANISM**

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### **ABSTRACT**

It is known that access to clean and consumable water has improved the living standards of people all across the globe. In such a case, how would we make accessible the unadulterated water for all? It is seen that in the urban areas utilizing various technological advancements such as deep water-boring methods, water treatment plants and numerous such systems the shortage of water has frequently been managed, though, the rural zones lacking funds to deploy such methods are most noticeably affected. They have been depending generally on the labour-intensive techniques and the conventional methods of collecting and exploiting water which incorporates drawing water from wells, unprotected ponds, tanks, reservoirs and streams. The constant utilization of such sources for multiple purposes has rendered the quality of water janitorial. The economy in this sector is absolutely agribusiness based and the non-accessibility or adulteration of water does influence their prosperity as well as their methods for work. So, what duty does the state owe to the sector holding the foundation of the Indian economy? Whether there is a need to critically evaluate the policies regarding sanitation and health rights formulated for the rural sector? This doctrinal research examines into distinguishing the probable causes influencing the said circumstance through a jurisprudential and economic analysis. The authors have emphasized on the existing legal framework to be inadequate in providing an all-pervasive solution to the problem. Therefore, the legalities and nature of offences related to contamination of water causing sanitary issues affecting the right to health are analysed as a tool to internalise the externalities.

**Keywords: Sanitation, Agribusiness, Right to health, Technology, Standard of living**

## 1. INTRODUCTION

There exists an irrefutable actuality that access to uncontaminated water is one of the most pervasive environmental challenges facing the society. To handle this, man has been utilized in contemplating the water-related issues, for example, sanitation and finding solution for the same. Public health is one of the most disturbing impacts of this issue. Earth's ability to support life in future is in question presently. Several instruments have been practised to combat these issues by settling the current situation with water. Necessary attention to one such prevailing issue is the efficacy of deployment of these instruments in the rural sector. The rural sector has been forgotten about in the race of accomplishing improved environmental conditions because of the reason, them being as yet falling back on the primitive methodologies for the sustenance of lives which in the end promotes poor sanitation conditions. Before we dissect the said issue and its potential solutions, we are required to address a disputable question, being, "do we by any chance owe any obligation for the protection of water sources?"

### **Justifying our absolute duty for the protection of water sources**

The opulence model of intergenerational theory legitimizes the greatest use of all resources present today with no commitments to save the whom and what is to come or the planet. This model is justified by the defence that the presence of a future generation is in itself questionable. Derek Parfit's paradox of future individuals further bolsters this model by expressing that there can be no future victims of the present decisions as the future age would exist just because of the choices made presently if at all, they might be [1]. So, does that imply that we don't owe a duty of care to preserve the water sources by any means?

Researchers have assessed that water on earth is more than 1 billion cubic kilometres which cover almost three-fourths of the world's surface. Despite the fact that this appears to be an extremely immense sum, in established truth, less than 1% is fresh and usable and is found in lakes, ponds, streams and groundwater. Of the remaining 97% is found in seas and 2% as glaciers and ice caps [2]. All consumable water is drawn from streams, lakes or springs and the cost included is just that of extraction since water itself is free. Water sources are frequently outside urban regions and decontaminated and appropriated through a piping framework. Water that was until now for nothing out of pocket is estimated in urban

territories to pay for the framework that must be built and kept up and worked to gather, pass on, treat and distribute water. In rural areas, the expense of water is because of monetary investments in the canal network or from the utilization of electric power. India is a huge nation with fluctuating land areas and climatic conditions. A few regions are rain-nourished while some others are prone to drought. This is the explanation behind why the distribution of water ends up costlier than it ought to be. Further, issues emerging out of poor sanitary conditions uncover extra costs. Such factors in the accessibility of water place the law in a dilemma. Therefore, making the questions relating to maintenance and safeguarding of the quality of water of most extreme significance.

### **Man's moral duty to protect the water sources**

Our duty to protect the water sources without much of a stretch can be defended from a profound morality perspective so that future generations inherit a world with clean water and healthy environment. John Locke's theory of property rights enable us to use just according to our needs and speculations, for the land which is given to us is common property[3]. However, humans are not perfectly rational and guided by reasoned morality.

*"Humans are driven by a perpetual and restless desire for power which only ceases in death."*

-Thomas Hobbes

While Hobbes has been condemned for having an outrageous critical perspective on human instinct, we can't deny that there is a degree of truth present in it. How at that point, do we justify the need to protect water sources to those of us who have a perpetual and restless desire for power? This is the point at which the economic aspects of sanitation become possibly the most important factor. It depends on a simple cost-benefit analysis of the choices made presently. The reasoning takes the following stream: each species has a longing desire and sense of preservation, protection, progression and reproduction. This is an undisputable reality. Presently, the preservation and protection of this species must be conceivable only if there are resources to provide for the same. Water is extremely vital for human survival and the amount of it accessible is constrained or limited to those present on the Earth. Along these lines, we have an obligation to safeguard the same at any rate until the time we locate another habitable planet.

## **The cost we pay by not taking care**

*“Water is a prime natural resource, a basic human need and a precious national asset.”*

- Government of India, Ministry of Water Resources

The quality of water available for drinking is posing a serious threat to public health. Degradation of water quality take place due to of land-use practices, human activities and economic development. The major causes of pestilence breakouts in the past and the outbreak of new diseases have been traced to the absence of sanitation and inefficient waste disposal frameworks. Consequently, public health has a legitimately corresponding relationship in most cases. This can easily be found from historical evidence. During the world wars, human life and environment took the greatest tolls. There were an additional 19-28 million casualties during World War II because of diseases and starvation [4]. In addition, environmental factors are destined to cause the spread of transmittable diseases prompting epidemics.

## **2. RESULTS AND DISCUSSION**

### **Conflicting human activities compromising sanitation**

Problems arising due to poor sanitation can be associated as an example of human activity in conflict with the needs of the environment.

One of the prime reasons behind deteriorating condition of the water sources is the practice of open-defecation especially in rural areas majorly the poverty-stricken ones. It insinuates the human daily schedule with respect to defecating outside in the open, for instance, in the bushes. The reasons behind this are various. A standout among the most highlighted reasons is the ‘social stigma’. For example, in certain customary villages, a man cannot impart the toilet to his daughter-in-law and along these lines, she is sent to defecate outside in the fields and bushes. This prompts genuine contrary ramifications for general public’s health. Considering the after effects of open-defecation, it leads to a series of problems. Individuals tend to pass bowels close to the river banks or the canals, later, due to rainfall, the water washes away the faeces into the waterways or the canals thereby contaminating the water. The same water is consumed directly by the villagers exposing them to immediate water-borne diseases such as diarrhoea. Also, the pile of defecate further attracts harmful insects

which act as immediate transmitters of micro-organisms causing diseases like dengue (vector-borne diseases).

### **Water Scarcity: Obstacle to public health**

The amount of water we have isn't in plenitude. From a worldwide perspective, freshwater was inexhaustible and the volume of freshwater recharged by the hydrological cycle between the seas, the air, the sun and the land were all that anyone could need to satisfy the wants of five to multiple times existing total populace [5]. This was the circumstance until 1998. Presently, there can be seen a converse connection between the populace rate and the amount of water. With the expansion in the populace, demand for water additionally expanded, in any case, water is a scarce resource that has been exhausting from that point forward. A large number of water frameworks that keep environments flourishing to sustain a developing human populace have turned out to be stressed. Unrationalized use of water in the rural areas is one such recognized stressor of the reason. Farming, for instance, devours more water than other sources and wastes a lot of that through inefficiencies.

Efficiency alludes to the circumstance wherein maximum benefit is determined by bringing about minimum expense relating to an economic-analysis made in advance. Economic-analysis of the issue of water-shortage won't just help us in recognizing the predominant circumstance however will likewise help us in assessing the efficiency of present approaches and the extension for revamping such strategies.

For instance, The National Water Strategy of 1987 provided that 'drinking water needs of people and animals ought to be the main utilization of any accessible water [6]. This was a measure embraced so as to control the social expense brought about due to unrationalized utilization of water for auxiliary purposes like farming considering that food-grains can be transported from regions having adequate water sources. The counter-contention to this would be that each rural segment's economy is to a great extent reliant on agribusiness. Hence, on the off chance that the grounds are not used to their best use, at that point there would emerge further pressure on the economy of that country section and will require extra venture from the government requiring exorbitant expenses. This leads us to build up a feasible solution for combat shortage.

## **Policy Framework: Evaluation**

The policy structure for water supply in the rural areas incorporates different components. The presence of a fundamental right to water in the Constitution induces that all potable water laws and policy structures will fall directly within this general mandate, which is similar to the decentralisation framework adopted in the case of constitutional amendments. The prevailing legislations governing water also bear on drinking water supply in immediate and backhand manner. For instance, in the case of groundwater legislation that explicitly gives an exemption from securing the permits in the system put in place hand-operated devices. Consequently, while there are several constitutional or legislative principles and norms that apply, the documents that actually hold the real importance in practice are the non-binding policy frameworks and guidelines adopted by the government.

In 1999 the Indian Government introduced a national policy called the *Rural Water Supply and Sanitation* (RWSS), reforms that promoted an increased role of communities and local governments in the planning, financing, and management of facilities of their own. It envisaged a shift in the role of the state government from a provider to a facilitator, and saw increased cost recovery from users as critical in ensuring quality and sustainable services.

The RWS reforms aimed to develop alternatives to the technology- dominated water boards and the public health and engineering departments. Further, at the state level, the guidelines provided for the creation of a *State Water and Sanitation Mission* (SWSM) or an equivalent institution to help the reform process, give policy guidelines salient to the state, coordinate with other departments, ensure uniform policies across pilot districts, and ensure by guarantee proper monitoring and evaluation. In the RWSS reforms, the Government of India (GOI), instead of funding the state boards, funds directly the *District Water and Sanitation Mission* (DWSM). The DWSM is given the responsibility of managing central funds, communicating the key features of the program to the entire district, forming village committees at the habitation level, and monitoring the progress of the implementation schedule. The village committees are ultimately responsible for the implementation of the rural water schemes. Their tasks include ensuring the participation of end beneficiaries, managing and organizing community contributions, ensuring that adequate arrangements are made for operation and maintenance, liaising with the DWSM, levying tariffs, procuring goods, and supervising implementation. A significant amount of capacity building and information was also to be managed at this local level, along with education and communication on health aspects

related to water and sanitation, and social mobilization and safeguards for the weaker sections of society.

The Government of India guidelines on sector reforms marked a shift in the institutions primarily responsible for the delivery of water supply and sanitation services. Two sets of guidelines were issued by the Government of India. While the first round of guidelines issued in 1999 were framed along the Swajal model, where village committees were to be established as not-for-profit non-governmental organizations (NGOs). The revised guidelines issued in 2000 [7] emphasized the involvement of PRIs, where the village committee is a subcommittee of the gram panchayat, and the District Panchayat is the District Mission. The revised guidelines call for state water departments and NGOs that provide technical assistance to be accountable to the local government rather than the state or centre [8].

In 2001, the Government of India also issued a finance manual to facilitate the reforms, cleared by the auditor general's office. This document institutionalized the mechanism of community contracting and procurement and ensured that a transparent and accountable procurement system was adopted. Based on the wide success and acceptance of this program, the Government of India allocated its entire rural water budget to the decentralized rural water program from April 2006 onward. Through this policy, the governments at the state level were being asked to restructure the PHEDs and enter into a memorandum of understanding (MOU) with the central government to shift from a centralized supply-driven to a decentralized demand-driven paradigm. As, Failure to do so would can result in a denial of the funds by the central government that form the core of the state government's resources for drinking water. This decentralization pilot is now fully integrated into national policy.

The RWS reforms program aimed for a fundamental reallocation of decision making from the state government to local governments. This program was explicitly conceived as a policy initiative toward decentralization linked to the achievement of efficient, sustainable, and equitable rural water development to assist in poverty alleviation. This program continues to run parallel to the national and state government's decentralization policies. It attempts the difficult task of linking internally desired reforms in the rural water sector with institutional and political transformation to build devolutionary and democratic local governments. However, structural administrative and political factors have impeded this process.

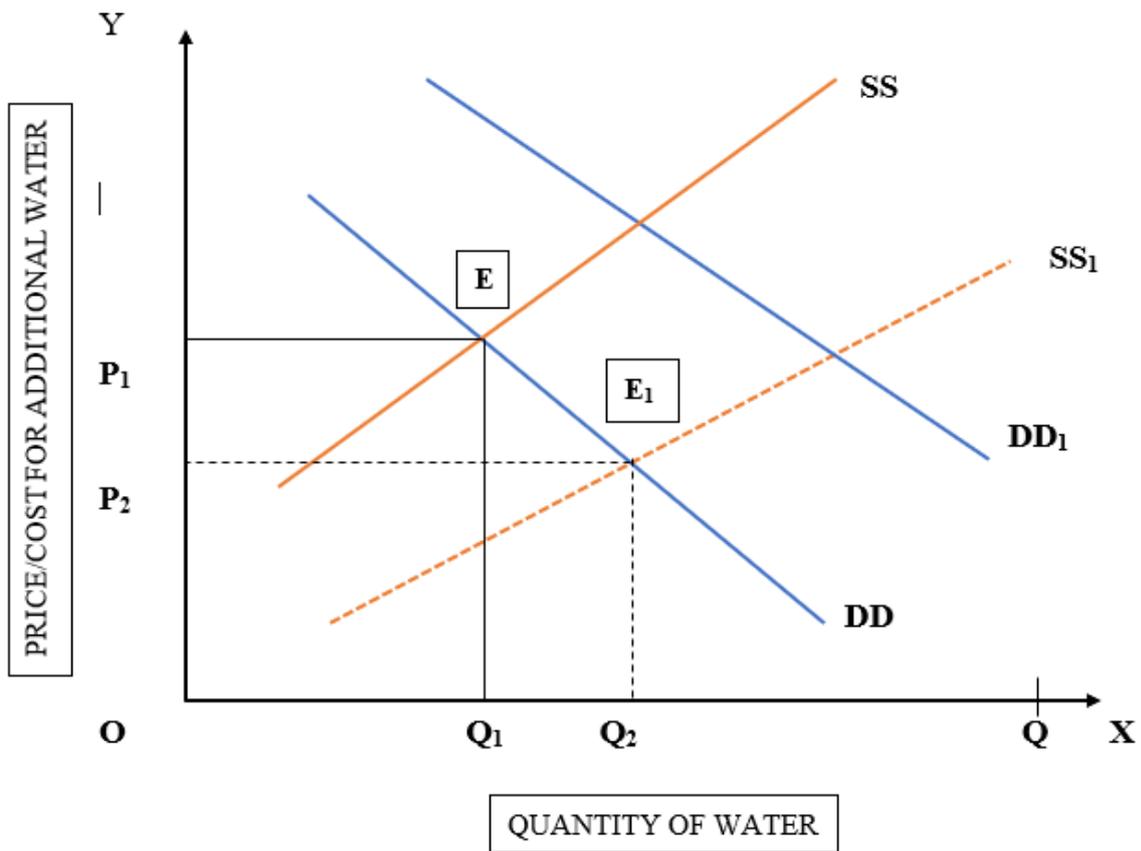
## **The Gandhian model towards conservation of water**

Lack of water can turn into a hindrance to public health. Setting up of water committee or Pani Panchayats [9] have demonstrated to be instrumental in defeating water shortage. Shri Vilasrao Salunke (originator of Pani Panchayat) was successful in persuading the villagers with respect to the significance of soil preservation and water-harvesting mechanisms in drought inclined area. The poverty-stricken villages at first didn't put stock in this as they used to relocate starting with one spot then onto the next in the quest for work. The originator himself assumed the liability of exhibiting the effect of watershed management program valuable for reasonable improvement in such regions. 40 acres of land was rented and cultivation utilizing a watershed management approach was followed. It was discovered that there could be a decent agricultural yield even with the scarce water. Villagers could now trust in the environmentally friendly practices as there was a complete transformation of such villages which prompted the halting of out-relocation as yield rates and pay levels had begun to increment.

It must be noticed that the Pani Panchayat was a triumph on the grounds that there was solidarity between the residents and the principles set by the council. Notwithstanding, the achievement rate in such a case would depend likewise on different components like financial homogeneity of the towns. Hence, we have to construct a system sufficiently able to check the weaknesses.

## **Water Marketing: a solution to water crisis?**

The following graph can be referred to assimilate the weaknesses of *Pani Panchayats*.



**Figure 1: Graph depicting water marketing**

In the graph, X-axis denotes total quantity of water available and Y-axis denotes the price charged for the usage of that water for purposes other than drinking. E is the prescribed limit at which  $Q_1$  quantity of water shall be charged a price  $P_1$  for secondary purposes such as agriculture. Clearly, SS is the limited supply of water and DD is the demand for water. In the subsequent years, population growth would be inevitable and would therefore increase the demand to  $DD_1$ .

The analysis of this situation takes the accompanying flow- a limited amount of water would compel the villagers to use it carefully in a way in order to satisfy the vast majority of their needs. Subsequently, when  $Q_1$  amount of water is utilized for agriculture and different purposes then  $Q_1Q$  amount is left for its essential utilization, i.e., drinking. The cost charged at first ought to be financed all together for the village to recover its economic sources following Pani Panchayat system and it will likewise be the obligation of the administration to educate the villagers on such procedures and to give the residents seeds of yields that require less water to grow. The most significant factor here is the joint effort between the

villagers and the authorities. In this manner, such authority is required to be perceived statutorily and the administration ought to be careful about keeping up a reasonable development in such zones. The point is to energize the water-table and arrive at the supply at SS<sub>1</sub> where the price for water diminishes and amount accessible for both-drinking and agriculture increments.

### **3. CONCLUSION**

Overall, progressive reforms should be thought once again in light of the fact that the prevailing ones do not fundamentally guarantee a practical realisation of the human right to water for the most unfortunate strata with least access to water, and just halfway, execute the constitutional structure for decentralized democratic governance. Also, the substitution of social equity as a basis for drinking water supply strategy with economic productivity neither guarantees that the least fortunate and socially most impeded people in a given village are specially focused on nor that the areas of any individual state that need special consideration for hydrological or social reasons are specially focused on, while the "old" system has been needing a couple of changes to guarantee better conveyance of what the government tries to accomplish which are being weakened because of the authoritative and political components, as the ongoing reforms do not seem, by all accounts, to be the appropriate response that will viably address the necessities of the most unfortunate and most marginalised.

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