CHAPTER IV
RIGHT TO SAFE DRINKING WATER – POLICIES AND PROGRAMMES IMPLEMENTED BY THE CENTRAL GOVERNMENT.

Introduction

The right in the context of water highlights the right to safe drinking water- a form to attain a dignified life. It has been reiterated in the various International Covenants, and under the UN Declarations that the right to water forms an integral part in making the life worth living. Art. 21 give importance to right to safe drinking water through various judicial declarations. In spite of this, it is a sad fact that about half of the Indian population is deprived of this safe drinking water.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, specifically lays down an obligation on the member states for the progressive realization of the right to safe drinking water. The General Comment No.15\(^1\) encapsulates the right to safe drinking water as a priority item. India being a member of ICESCR is obliged to gradually realize the right viz- a-viz its population. In the past two decades more and more space has been devoted to the discussion on redefining the role of the state in the water sector reforms with special focus on public-private/ community participation in the drinking water supply.

The Five Year Plan documents and the National Sample Survey provide the official figures of the percentage of the population having access to the safe drinking water both in urban and rural India. The Planning Commission states that these figures are far from the ground realities, which means the situation is not as simple as that projected in the official circles.\(^2\)Traditionally water supply in India was limited to major
towns and cities and too was within the boundaries of the state/provincial units. With the spread of the process of urbanization and declining public health standards in both urban and rural India, post independent India took a serious initiative in the form of laws and policies in providing access to safe drinking water.

A two-way approach has been taken by India for supplementing the basic right to safe drinking water. They are:-

1. Legislations focusing on water supply and sanitation, to be driven by the state agencies; and
2. Policy initiative by the Central Government in order to assist and supplement the state’s activities with the overall objective of providing safe drinking water and promoting public health.

In effect the relationship between the right to safe drinking water as a basic human right and the responsibility of the states in the realization of this right faces certain limitations. These limitation include the allocation of the legislative power on the water supply to the states within the Constitution; inadequacy of finance available at the disposal of the states which is to be supplemented by the initiatives of the Central Government; and the administrative and financial autonomy, yet to be enjoyed by the local bodies in spite of the powers been vested by the 73rd and 74th amendments to the Constitution of India.

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**Laws and Policies with regard to Safe Drinking Water**

The Government of India has accorded highest priority to drinking water followed by irrigation. Water is not an abundant and readily available resource. It has been limited as a finite source, in the sense that it is limited. The chronic perennial
shortage of drinking water is being reported continuously and it is causing great hardship to the people.\textsuperscript{5} In a study conducted by the NEERI reports that every third person deprived of safe drinking water in this world is an Indian.\textsuperscript{6}

Constitutionally it is obligatory upon the states for the creation of the condition which is necessary for maintaining good health. State control is necessary to assure the supply, quantity and quality of safe drinking water. Soon after independence, the need to ensure the wholesome water supply has engaged the attention of the government. The Environmental Hygienic Committee (1948-1949) appointed by the Government of India, recommended provision of water supply for 90 percent of its population. In 1954, the National Programme for providing safe drinking water to urban areas was launched.\textsuperscript{7}

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In the five year plans up to 1980, despite the investment of about Rs 622 crores, only 64,000 villages covering 10 percent of the rural population has safe drinking water. In the sixth five year plan (1980-1985) India pledged its full support for the ‘International Drinking Water Supply and Sanitation Decades Programme (1981-1990).\textsuperscript{8} Since, independence, Central and State Governments have collectively spent more than Rs.450 billion for rural drinking water sector.\textsuperscript{9} The Government of India, has given highest priority to this sector by launching a Technology Mission on Drinking Water in 1986 at the initiative of Shri. Rajiv Gandhi, the Late Prime Minister. This mission was later renamed as Rajiv Gandhi National Drinking Water Mission (RGNDWM) in 1991.\textsuperscript{10}

During 1991, Department of Drinking water Supply (DDWS) was set up within the Ministry of Rural Development, to extend greater thrust to drinking water supply. In Drinking Water Supply, Sector Reform Projects (SRPs) in 67 districts on pilot basis was
launched, which were later sealed up in 2002 across the country in the form of Swajaldhara. Well intentioned and full of promise, will the Swajaldhara be able to deliver what its predecessors had done is an important question.\textsuperscript{11}

The Eighth National Water Convention held from 9-11 February 2000 dealt with the priority of water development and with the creation and sharing of information with respect to the water resource management.\textsuperscript{12}

The Tenth Five Year Plan (2002-2007) indicated the measures to be adopted for reforming the drinking water sector in India, which are: the need for people’s participation, need to create awareness about the economic use of water; need for the private participation ; conservation of water resources; active integration of drinking water supply with sanitation programmes; filing of returns by Panchayat Raj Institutions\textsuperscript{13}; constitution of village committees in charge of operation and maintenance of water works; and promotion of traditional needs of water conservation.

In most of the post independence years, India adopted a State-centric approach for securing the right for people or in other words the state acted as the guardian of the people. From the 1990s, the Government realized the need for taking the end users into account. With this objective, the policy documents began using expressions like ‘economic use’ of water; inculcating ‘responsibility in users’ by imposing charges, and the ‘responsibility’ for the operation and maintenance of the services.\textsuperscript{14}

Water and related subjects as per the Constitutional scheme, is within the purview of the state except in the case of inter-state water disputes. This being the position, the Indian laws, mainly concentrates on state laws with matters dealing with water. An evaluation of the water laws dealing with the drinking water makes it clear that
the legislations use the expression ‘water supply’ and place drinking water as a component of ‘water for domestic purposes’. In other words, the water supply legislations are meant for drinking and non-drinking purposes. A broad classification of water supply laws can be laid down as follows:

1. Laws establishing water boards for the urban water supply;
2. Laws enacted for water supply in metropolitan cities;
3. Laws for the water supply in the state as a whole;
4. Laws on regulation of ground water extraction and its use;
5. Laws on protection of water resources;
6. Laws for supply of water to the industrial areas;

**Characteristics of Water Supply Laws**

In legislations dealing with water and water supply, the definition of ‘domestic purposes’ include water for drinking. For instance, in UP Water Supply and Sewerage Act, 1975 (UP Act) defines water supply for domestic purposes as: those purposes excluding trade, or business; for gardens or irrigation purposes; for building purposes including construction of streets; for fountains; for swimming baths, public baths or tanks or for any ornamental or mechanical purposes; Water supply is defined as a system of providing water to a community for meeting its requirement for drinking and other domestic uses, industry, recreation and various public uses.\(^{15}\)

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The legislations are enacted with the single objective of providing and regulating water supply in the state;\(^{16}\) or with the dual objective of setting up the water supply in the state and for the establishment of the corporations\(^{17}\) or boards for the same. The Act aims at the protection of the water resources in public interest with a sustainable,
conservation perspective. The creation of an urban board for development, regulation and maintenance of water supply and sewerage services is stipulated and the legal personality of the Board is specified wherein it is deemed to be a corporate body, having the status of the local authority. The Kerala Water Authority is considered as an autonomous body in this respect. The Karnataka Act acknowledges the inefficient functioning of the local authorities in charge of water supply and aims to improve the situation through the creation of the board, which will have the powers of monitoring various schemes and allocating financial resources via loans to local bodies.

In India, we find a state legislation, which focuses upon the regulation and control of the water resources in the public interest. The Act in its preamble states that such a measure is needed to ensure rational distribution of water for the purpose of human and animal consumption, irrigation and the industrial development. A study sponsored by the Planning Commission of India provides a narration about the background of the legislation. The study shows that the Act is an instance of gradual substitution of the rights of the indigenous community with respect to the management of the water resources, including the drinking water supply with a formal state system.

The supply of water is regulated depending on the purpose for which it is used. A protective umbrella is given to the drinking water purposes. Various Acts stipulates that the license for water supply for the purposes other than domestic may be withdrawn if it is felt necessary to do so to sustain the supply for the domestic purposes.

All the water supply laws introduce the system of charges levied on water consumed whether for domestic or other purposes (on the basis of meter or number of points installed from the main connecting pipe). However there is a subsidized system for
domestic consumption. The overall responsibility of meter repair, connections, pipes and other matters incidental there to is connected with the government. Under certain Acts, the water rate may be determined by the local authorities in those cases where the water supply schemes are handed over to them after payment of capital costs, maintenance and replacement costs.

In legislations dealing with water, the various divisions of supply include public, commercial or domestic purposes. The public posts erected and operated by the government are meant to provide free water. Hence no water charges are levied under some of the laws. But the KWA imposes the charge for street taps on the respective local authorities.

It is evident from the legislations that water supply is provided by the respective state authorities on the basis of the application submitted by the required party. It is processed after examining the purpose for which it is to be used and the quantity needed. In the Assam Act, prior permission of the Managing Director of the board is required for sinking tube wells in the urban areas.

The supply of water is provided and regulated by the state authorities constituted for the purpose. As seen above, different state legislations work on different objectives. In state like Kerala, there is an overall authority, namely the KWA constituted under the Kerala Water Supply and Sewerage Act, 1986. The laws mandate that the authorities will not be responsible for the failure in supply due to repairing works or reasons beyond their control.

In India, we come across pictures of leaking pipes, resulting in wastage of water through distribution, which in turn is responsible for many of the open access pipes
producing air than water through the outlets. The laws seems to be more inclined to punish the violators of the regulatory structure than fixing responsibility for the inefficient supply, distribution and management of the basic utility.

A study of the water supply system in Tamil Nadu\textsuperscript{28} serves as an indicator to the generality of the problems suffered by the state water supply agencies in India.

On analyzing the existing water legislations the main lacunae are as follows: Inadequate supervision and monitoring, lack of skilled and operating staff; visible leaks remain unattended for a long time; water meters not functions properly form the beginning; non-payment of water charges by the local bodies etc.,

During period 1994-95 the revenue department of Delhi had shown a figure of Rs. 290 million as total arrears in the water supply sector. The problem is mainly due to the lack of coordination between the Delhi Water Board and a number of nodal agencies involved in the development of Delhi like the Slum Wing Department, National Capital Region Board, Delhi Development Authority, Delhi Pollution Control Board, Central Ground water Authority etc.\textsuperscript{29}

The authorities envisaged in the water supply legislations are meant to strengthen the objectives for which the laws are enacted. These laws serve as a miniscule section of the Indian Population and water supply is in the hands of state agencies. However, any kind of supply of basic utilities constantly reminds us about the transparency and accountability.
Policy framework of Drinking water in India

The water supply and sanitation were recommended priority areas by the Bhore Committee (1946) and the Environmental Committee (1949) with elaborate plans. Although no immediate measures were adopted by the Central Government, in the year 1954, it provided assistance to the states to establish special investigation divisions in the fourth Five Year plan to carry out identification of the ‘problem villages’. The Accelerated Rural Water Supply Programme was introduced in 1972-73 by the Central Government keeping in mind the magnitude of the problem and to accelerate the pace of coverage of problem villages. The programme provided assistance to the states and the Union Territories with 100% grants-in aid to implement the schemes in villages. This programme continued till 1973-74. But with the introduction of the Minimum Needs Programme (MNP) during the fifth five year plan (1974-75) with the objective of socio-economic development of the community, it was withdrawn. The programme was however, reintroduced in 1977-78 when the progress of supply of safe drinking water to identified problem villages under MNP was found to be not focusing enough on the problem villages.

There were international initiatives, which boosted India’s striving towards providing 100% coverage of rural and urban population with safe drinking water. The initiative include the WHO movement on health for all by the year 2000 (1977), the Alma Ata Declaration on Public Health (1978) and the programmes which began as part of the international water supply and sanitation decade. The drinking water programmes were taken up with a ‘mission approach’ enriching them with scientific and technological input in order to ensure better performance with less
A Technology Mission was set up by the central government in 1986 to assist the state in providing drinking water supply. The aim of the mission was to set up small projects and identify the causative factors for public health problems arising from the drinking water sources in a scientific manner. Technology Mission has been renamed as the Rajiv Gandhi National Drinking Water Mission (RGNDWM) with the broad objective of providing sustainable safe drinking water to all ‘un-covered’ or ‘no source’ villages and creating awareness among the rural people about the hazards of unsafe water. The Department of Drinking Water Supply was created by the Ministry of Rural Development by the Central Government, and is acknowledged as the nodal agency with the responsibility of providing safe drinking water to all the rural habitations.

1. Rural Water Supply:

The rural water supply activities remained as part of the Integral Rural Development Approach, until the Third Five Year Plan (1961-66) where rural water supply was linked with other activities of rural development such as sanitation, health etc. The National Water Supply and Sanitation Programme were introduced in 1954. It was found during the mid-sixties that rural water supply schemes were implemented in the easily accessible villages only. The Government of India assisted the states to establish Special Investigation Divisions in the Fourth Plan to carry out the identification of problem villages.

Water Supply maintenance in rural areas was handled mainly by State Public Health Engineering Departments or Panchayats. Regarding piped supply systems in the villages, the situation are usually much worse. Panchayats were
functioning only where state governments and the Union Territories were making adequate allocation for maintenance. At the commencement of the Seventh Plan, 1, 61,722 problem villages remained to be covered with safe drinking water facilities, 1, 48,958 villages have been covered so far and 12,764 was left and about 6,358 villages are likely to spill over to the Eighth Plan. About 85% of the rural supply is based on groundwater. In rural areas, the emphasis is to locate water resources requiring the simplest possible treatment or no treatment before consumption. In the rural sector the reformatory process was initiated with the sector reforms project and Swajaldhara. These programme areas reflect a change in the attitude of the Government since the community involvement is the focal point. These programmes spell out the need for community participation in the choice of drinking water schemes, their planning, design and implementation and control of finances and management. These reformatory moves also seek for full ownership of drinking water assets by the community by contributing their shares.

The Department of Drinking Water Supply has developed a system for monitoring and regulating the various programmes and schemes for the supply of drinking water. The reports of performance by states in this sector are discussed and reported in the agenda notes of State Secretaries’ Conference held in different parts of the country. These reports are prepared on the basis of the use of variables like the number of rural habitations (not covered, partially covered and fully covered) facilitated with drinking water supply; slipped back habitations; schools having drinking water supply; number of SC/ST population getting the benefit of the supply etc., The Parliamentary Standing Committee on Rural Development for the year
(2005-2006) in its Report to the Loksabha after reviewing the reports on the state’s performance sought the response of the Department of Drinking Water Supply (DDWS) on many crucial issues. Some of the main observations of the Committee were:

1. The DDWS projects a bright picture as opposed to the ground position on the availability of drinking water in the country. The achievements projected by the Department shall be realistic and accurately presented in the documents presented to the Governments and the Committees.

2. The mechanism of reporting adopted by the states is inappropriate since it fails to provide a reliable and convincing picture with regard to the accessibility and availability of the drinking water. There was a gross mismatch between the physical and financial achievements.

3. Some of the states are unable to contribute an equal amount of what is contributed by the central Government under ARWSP. The Committee failed to understand how the states as per the stipulated guidelines release the central allocation without ensuring equal allocation.

4. The Committee expressed its dissent to the Government proposal to replace ARWSP with Swajaldhara. It stated that these two are different schemes of drinking water and hence to be implemented separately. It is proposed to gradually introduce the reform process of community participation as part of the ARWSP from the eleventh plan onwards.
5. The Committee feels that each drop of drinking water is to be conserved. Hence the department shall take a serious note of water conservation and management.

6. The Government takes the least initiative on the treatment of used water and the subsequently supply for the drinking purposes and the effective management of leakage of water from the pipes where the supply is through the pipes.

The Comptroller and Auditor General (CAG) of India in its 2002 Report stated that the water supply in terms of providing potable drinking water to all villages by 2004 is known for misplanning and negligence. The picture is far from satisfactory despite spending an amount of Rs.32, 302.21 crore on RWSP since the First Five Year Plan.

On reviewing the implementation of the rural water supply programme during the period 1992-1997 in Report No.3 of 1998 (Civil), the CAG observed deficiencies in planning, unscientific identification of water sources, re-emergence of problem villages/habitations, non-functional water treatment plants, expenditure on non-priority area, incorrect reporting of financial achievements, diversion/misuse of funds, ineffective control, monitoring and review, excessive purchases of materials etc. In their Action Taken Note submitted in February 1999, the Ministry had stated that all rural habitations would be provided drinking water by the end of 9th Five Year Plan.

While addressing the Conference organized by the RGNDWM, then Prime Minister Sri Manmohan Singh stated that a recent comprehensive survey of national opinion revealed the centrality of access to drinking water to all people.
When asked what would make respondents proud of India, about 73 percent said that availability of safe drinking water to all our people would truly make them proud of being an Indian. The agenda of the Government for securing this basic demand of the people are: provision for uncovered habitations with supply at the earliest; address of the problem of the 2.8 lakh habitations which have slipped out of full coverage for a variety of reasons; and address the problem of poor quality of water supplied. It was pointed out that an important criticism of India’s water infrastructure is that its growth has not been accompanied by an improvement in the quality of governance of water services.

The Prime Minister in his speech pointed out the five aspects of the agenda to be considered on the priority basis. These are, eliminating the backlog and providing safe water to all remaining habitations which are either uncovered or have slipped back from full coverage; addressing problems of water quality; entrusting the responsibility of water supply management to local institutions and building their capacity in the management of water supply; improving comprehensive management of water supply by strengthening the management of our environment; and mobilizing communities to spread awareness of the linkage between good health and safe water supply.

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2. Urban Water Supplies:

Urban areas are much better placed as generally tap water is being supplied. During the International Decade programme the country has made many efforts in promoting the urban water supply programmes.
3. Decentralization Measures in Drinking water:

In the recent years India developed a twist in is strategy from state as the service provider to state as the facilitator. This facilitating role envisages more decentralization of the drinking water sector. Although, the Indian model of decentralization fulfills the modalities of administrative decentralization, it lacks fiscal and political decentralization.39 The National Commission on Urbanization observed how water supply system was unequal, unjust and highly biased in the favour of the rich. It is observed that the ‘social construction of power structure’ makes ‘water artificially scarce’ for the poor.40 Democratic decentralization implies the downward delegation of authority. Thus we are at a particular juncture in drinking water sector reforms wherein a role dominated and performed by the State is now expected to be discharged by the community and the private sectors. Although the people centered approach is a welcome step for the success of water supply and sanitation programmes, it is not clear whether we need to continue with the top-down approach than the bottom-up mode. The Government began the exercise of imparting training to local bodies about the need for conserving the water sources, know-how about the operation and maintenance of water works etc. With regard to water supply and sanitation, it is better to start the process from the local bodies since they are more near to the local habitats.

In various states, the Grama Sabha is considered as the ideal local institution in which the people express their faith. But the low participation and the poor management are considered as the one factor which resulted in the decline of these institutions. Women participation is also considered to be very low in the local
institutions. If these deficiencies are avoided, the Grama Sabha can function as the proper organ for the implementation of the new programmes with regard to water conservation.

While evaluating the state performance in the drinking water sector, Kerala has been pointed out as having shown a dismal performance. The reasons for which are: an unacceptable top-down approach to planning, non-involvement of users, highly inadequate levels of cost-recovery, and frequent breakdowns due to proper maintenance and operation etc.41

The Kerala Rural Water Supply and Sanitation Project (Jalnidhi) is designed and implemented by the users themselves as against the top-down approach. This will be owned, operated and maintained by the users themselves on a total cost-recovery basis. A survey conducted reveal a sad fact that only few are aware of the fact that the Government has to re-pay back the money borrowed from the World Bank and many of them are unaware about the period of repayment and also of the interest they have to refund. Many of them justified the taking of amount from the World Bank since it is for the drinking water.

It is worth noting that in the decentralization and community participation debate, an important factor overlooked is that traditionally drinking water supply systems were effectively managed by the communities in India. For instance, in Uttaranchal State, informal institutional networks involved in the use-management of all natural resources, including water. These village institutional frameworks have been responsible for the creation and management of hundreds of thousands of drinking water systems, about 16000 traditional irrigation systems and 50000 water mills.42
The National Water Policies implemented with the aim to prioritize ‘drinking water’ and to provide more importance to water and water related aspects by the Central Government was a welcome step even though it has been faced with many draw backs.

**National Water Policy, 1987**

Having regard to the importance of water, the federal structure of this country and the nature of the allocation of responsibilities in respect of water in the Constitution, the need for a National consensus on a policy framework was important. It was an awareness of this that led to the formation of National Water Policy, 1987 (NWP, 1987).

The National Water Policy, 1987 was a slim document and its structure and contents were clear at a glance.\(^43\) It is true that NWP, 1987 was a good beginning, but it is also a sad fact that it did not go far enough.\(^44\)

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By the late 1990s, there was a general recognition that it was necessary to review the NWP, 1987 and make changes in it. The National Commission for Integrated Water Resource Development Plan referred to this in the report of September, 1999.\(^45\) As a result, a new National Water Policy, 2002 was formed.

**National Water Policy, 2002**

It has been recommended in the NWP, 2002 that water resource development and management have to be planned for a hydrological unit such as a drainage basin as a whole. It is to be multi sectorally taken into with the aim of providing preference to surface and ground water for sustainable use, incorporating quantity and quality aspects
as well as environmental consideration including catchment treatment and management, rehabilitation of project affected people and command area treatment.

The National Water Policy, 2002 lays down special emphasis that water is scarce and precious national resource to be planned, developed, and conserved as such and on an integrated and environmental sound basis, keeping in view the needs of the states concerned. The policy also lays emphasis to create awareness of water as a scarce resource to promote conservation consciousness. Under Para.13 it calls for the encouragement of ‘private sector participation’ in the planning, development and management of water resources projects; on the ground that it may introduce innovative ideas, greater financial resources, introduce corporate management and improve service sufficiency etc.

It is a fact that the National Water Policy, 2002 will be in force for some years. A practical and opportunistic approach is needed for the fulfillment of ideas enumerated in the NWP, 2002.

The National Water Policy 2002, in the very first line states, “Water is a prime natural resource, a basic human need and a precious national asset”. Under the heading ‘Drinking Water’, it states, “Adequate safe drinking water facilities should be provided to the entire population both in urban and rural areas...Drinking water needs of the human beings and animals should be the first charge on any available water”. In conclusion, it is stated, “In view of the vital importance of water for human and animal life, for maintaining ecological balance and for economic and developmental activities of all kinds, and considering its increasing scarcity, the planning and management of this resource is optimal, economical and equitable use has become a matter of the utmost
urgency”. From this it is inferred that the Government of India identifies water both as a natural resource and a national asset and also as a basic human need. It is aware of the fact that provision of safe drinking water is a must both for the human and animal life and also to maintain the ecological balance and for ‘economic and developmental activities’. It is certainly interesting to observe that the Government treats water as a natural resource and national asset and hence integrates it for economic activities. This becomes more astounding as the Government also considers the ‘interesting scarcity’ of water. In this, perspective, water is more regarded as a ‘commodity’ which is to be traded for economic gains. The National Policy nowhere regards water to be a human right but only a human need. The term ‘need’ implies some sense of charity, and represents the recipients as passive beneficiaries, whereas ‘right’ conveys a sense of legal entitlement, which should, in turn result in a corresponding duty.

Again in Para 1.3 of the policy, it is stated, ‘water is part of a larger ecological system. Realizing the importance and scarcity attached to the fresh water, it has to be treated as an essential environment for sustaining all life times’. Hence, the intending threat of ‘scarcity’ of water is an admitted fact and this has to be dealt with all seriousness vis-à-vis the human rights approach to water as observed by the Supreme Court of India in their various interpretations of the implicative aspects of the Fundamental Rights relating to Right to Safe Drinking Water.

Another significant aspect which is to be discussed is about privatization and more involvement of private sector participation. Privatization means exploitation of the poor and deriving profits and their cost. The private party which will make investment would certainly not do for charity but for profit-motive. The State may not make the
investment for the water projects and will be able to save finance, but in the long run it will be detrimental to the public. Both the National Water Policy, 2002 at Para 13, and the Orissa State Water Policy, 2003 of the Orissa Government have stated the Private Participation is the need for the water resource management and development. But, however the Kerala State Water Policy, 2007 has not mentioned any where about the need for the private participation in water resource management and development.

Need for an Alternative Water Policy

There is a need for the alternative water policy taking into effect the drawbacks of the NWP, 1987 and NWP, 2002.

1. Water is the very basis of life and is the foundation for human survival and development. Sustainable and equitable use of water over millennia has been ensured by the cultural adaptation to water availability through water conservation technologies, agricultural systems and cropping patterns adapted to different climatic zones, and conservation based life styles. The proper management of our limited resources will be essential to ensure food security for our growing population and to eliminate poverty. It will be essential to avoid the growing conflicts and the possibility of social unrest in the country in future due to water scarcity.

A national water policy for the twenty first century has to recognize water as a national resource for the purpose of national development goals and planning, although the management of water has to be done in a decentralized way in partnership between local communities and the concerned state governments. The policy should provide broad guidelines, and should be flexible enough to suit the various conditions in each watershed.
and river basin, such as the agro climatic zone, location of polluting and other industries, location of towns and population density.

2. The earlier National Water Policy was adopted on September 1987 and the revised policy has been adopted by the National Water Resources Council on April 2002. In the last few years number of problems/ challenges has emerged in the development and management of water resources. On the other hand the water crisis has grown and on the other hand local initiatives in water conservation have started to respond to the challenge. Strengthening these initiatives requires the strengthening of the water rights of the community, rejuvenation of the traditional techniques in conservation and management, recognition of water as a common property resource and not merely as a commodity subject to market forces.

3. Dealing with the drought and water scarcity should be taken as an urgent initiative in the policy, to be guided by the principles of conservation, protection of water quality, sustainability and equitable access. For this the water users and communities themselves have a central role in the overall management of local and regional water resources, with higher levels of government playing a suitable supportive and regulatory role in providing appropriate inputs of information, technical help and financial resources.

4. People centered and managed watershed development in India’s rainfed areas has to be accorded the highest priority in order to contribute to the vital national goals of employment generation, ford production and food security.

5. The efficiency of utilization in all the diverse uses of water should be improved and an awareness of water as a scarce resource should be fostered. Conservation
consciousness should be promoted through education, regulation, incentives and disincentives in the following ways in different sectors:

**Domestic Sector:**

- b. Water meters on all consumers/ groups of consumers.
- c. Progressive water tariff structure.
- d. Auditing of water balance on each distribution system
- e. Sewage and other domestic use should be piped separately

**Industrial Sector:**

- b. Water recycling facilities.
- c. Treated urban sewage water for cooling and other purposes

6. The management of the water resources for diverse uses should be done by adopting a participatory approach, by involving not only the governmental agencies but also the users and other stake holders in an effective and decisive way in various aspects of planning, design, development and management of the water resource schemes.

7. The study of the impact of a project during the construction and later, on human lives, settlements, occupations, socio-economic environment and other aspects should be an essential component of project planning. All projects that seek to conserve/impound water or generate power should make the Environmental Impact Assessment or the Social Impact Assessment and the Cost Benefit Analysis open for the public scrutiny and should
examine alternate options before coming to a conclusion about the most appropriate strategy.

8. Water allocation priorities should broadly be as below, but governed on the basis of local conditions and requirements:
   a. Drinking and Domestic use.
   b. Sustaining livelihoods
   c. Sustaining environment, maintaining river systems and aquatic life
   d. Irrigation and thermal power
   e. Industries
   f. Recreation and religious uses
   g. Navigation.

9. Ground water management should be governed at the community level with the participation of the concerned state governments without affecting its quality and quantity.

**Draft National Water Policy, 2012**

Work on the National Water Policy, 2012 has been in progress for nearly two years, starting from 2010 and the Draft National Water Policy was released on 31st January 2012. The Draft National Water Policy discusses on wide range of issues like water as a public trust, water as right, water use priorities, water conflicts, water allocation, institutional arrangements, interstate river disputes, inter country water allocation, local water augmentation, water use and land use, desalination of sea water, role of Panchayat Raj Institutions in water management, corporatisation and privatization.
of water supply, water markets, water pricing, water pollution and water quality
maintenance. It sets the following criteria:

1. This sets the framework for the policy, including the present scenario,
   concerns and basic principles of water resources management. This mentions
   that interdependence of all elements of the hydrological cycle and the need
   for equity.

2. The need for the ‘overarching water framework law’ is mentioned. It
   mentions the need for the development of inter state river and river valleys’
   and also the need to consider groundwater as a public trust and not as a public
   good.

3. It is determined to prioritize a minimum amount of potable water as a basic
   human right and ecological flows.

4. Lay heavy stress on large centralized engineering both while estimating
   water availability and while determining a strategy for future use. Inter basin
   transfers are considered necessary under the new draft water policy.
   It mentions the need for the development of inter State River and river
   valleys and also the need to consider ground water as a public trust and not a private
   good.

5. Water is to be treated as an economic good and priced accordingly.
   Otherwise, wastage of water is encouraged.

6. Reducing the disparity between the urban and rural water supply,
   encouraging water audits are mentioned.
7. This concerns itself with the speedy execution of projects through concurrent monitoring by the state and the centre.

8. A State Level Water Authority, a Central Water Disputes tribunal and National Forum for Water are all recommended. It is also recommended that the State confine itself to regulation of services, while provision is to be done by community or private sector.

**Conclusion**

The above discussion reveals the fact that there is a changing nature of responsibility of the state with respect to the drinking water. The drinking water policies are mainly initiated by the central government. The operation of number of laws and policies simultaneously by different agencies raises the issue of coordination among them and the generation of conflicting data on the status of access to drinking water.

In a vast country like India it may be a utopian idea to evolve uniform strategy for drinking water supply. By and large, it is clear that the users are to have definite role in decision making and implementation. It is necessary to incorporate the existing models of people’s participation, if any, in the decentralization package. The engineered solutions for drinking water need to be supplemented with a social response in terms of the end users participation and the deployment of indigenous wisdoms. We should evolve a policy based on the feedback from the community for which a preliminary investigation is needed, gathering people’s perspective on schemes run by the state.
References:


5. In a survey conducted form 18/6/2006 to 20/6/2006 in Vizhinjam Panchayat near Trivandrum City, among 130 families, about 75-80% of the inhabitants claim that they get water only in three to four days for two to three hours during summer.


8. In the United Nations Conference on Human Settlements held in 1976, it was recommended that safe water supply and hygienic waste disposal should receive high priority from Governments.


10. Prior to these programmes particularly in water supply were through Accelerated Rural Water Supply Programme (ARWSP) started in 1972-’73 for assisting states/union Territories on allocation basis to accelerate the coverage of drinking water supply.

11. Swajalldhara is stated to have the following elements:
   1. Demand-driven and community participation approach.
   2. Panchayats/Communities to plan, implement, operate, maintain and manage all drinking water schemes.
   3. Partial capital cost sharing by the communities up front in cash.
   4. Full ownership of drinking water assets with Grama panchayats.
   5. Full operation and maintenance by the user/ panchayats.
12. The two themes of the Convention were:
   1. Five decades of the Water Resource Development in India.

13. Since the Planning Commission feels that the reality of ground level data on rural water supply is not convincing, a re-survey is needed to be done by the Panchayat Raj Institutions and a return is to be filled periodically. This method of return filling, the planning Commission desires, to be inserted as a condition precedent to the allocation of the funds in the future. (See, Tenth Planning Commission Report, 2002-2007).

14. Ibid.

15. See, Uttar Pradesh Water Supply and Sewerages Act, 1975. See also Kerala Water Supply and Sewerages Act, 1986 in which ‘domestic purpose’ is specified as supply for households, residential flats, Government dispensary/clinic, Government Schools, Government Hospitals, Orphanages/ Poor homes.

16. Regulating water supply means regulating the supply for public, commercial or domestic purposes.

17. See the Preamble of Uttar Pradesh Water Supply and Sewerages Act, 1975.

18. Supra n.17 Chapter 2.

19. See, Section 4 of the Kumaun and Garhwal Act, 1975. The state has the power to regulate and control the collection, retention and distribution of any water and water resources.


23. Other purposes include non-domestic, industrial and casual repairs.


26. Kerala Water Authority (KWA) is the successor to the Public Health Engineering Department which was constituted under the Kerala Water Supply and Waste Water Ordinance, 1984. This was replaced by Kerala Water Supply and Sewerages Act.

27. See, Section 16 of the Kerala Water Supply and Sewerages Act, 1986.


30. A ‘Problem Village’ was defined as one where no source of safe water is available, within a distance of 1.6 km or where is available at a depth more than 15 meters of water source has excess salinity, iron, fluoride and other toxic materials or where water is exposed to the risk of Cholera or Guinea worm. (See Rita Aryan, ‘Drinking Water Supply: Law and Policy’, Journal of Indian Law Institute, Vol.33, 531 (1991).


32. See, Agenda notes of the Conference of State Secretaries on Rural Drinking Water Supply and Total Sanitation Campaign held on 8-9 September 2005 at Kolkata: 15-16th September 2005 at Delhi; 29-30 September 2005 and 6-7th October 2005 at Chennai; and the Conference of the State Ministries of the Rural Drinking Water and Sanitation form 31 January to 1st February 2006 at Delhi.

33. They are habitations which were fully covered and slowly fallen into the category of not covered or partially covered habitations.


38. Annual Report (1989-'90) (1990-'91), Department of Rural Development, Government of India. The Decade programme was launched in India on 1st April 1981 with the object of increasing the urban population coverage with the water supply facilities from 72.25 in 1981 to 100% in 1991. During the Seventh Five Year Plan an outlay of Rs 2935.64 crores under the state sector and Rs 30.11 crores under the Central sector have been provided for the urban water supply and sanitation. The Rajiv Gandhi national Drinking Water Mission (RGNDWM) has formulated a strategy to cover all residual and slipped back habitations by 2007 (by the end of Tenth Five Year Plan) so as to ensure sustained supply of safe drinking water. It has been planned to provide all rural schools and Anganwadis with safe drinking water by 2005-2006. (See V.K.Duggal, 'Drinking Water and Sanitation', Yojana, 2005, p.16).


42. See, Evaluation of Varied approaches for enabling Sustainable and Equitable access to Drinking Water in Uttaranchal, Development Centre for Alternative Policies, Delhi, 2003.

43. a. Water is a scarce and precious natural resource.
   b. Basis of planning has to be in a hydrological unit.
   c. Project planning should be of multiple benefits, based on an integrated and multi disciplinary approach, with special regard to human, environment and ecological aspects.
   d. Ground water exploitation should be regulated with reference to recharge possibilities and consideration of social equity.
e. The first priority should be given for drinking purposes.
f. The distribution of water should be with regard to social justice and equity.

44. It certainly took note of the emerging environmental and equity concerns, but perhaps not adequately; priority was accorded to drinking water, but this was no more than a pious declaration; and despite the intention of shifting the focus from projects to resource policy issues, it devoted a disproportionate space for the large irrigation projects. (Ramaswamy R.Iyer, *Water perspectives, Issues and Concerns*, SAGE Publications, New Delhi, 56(2002)).

45. It was observed that, ‘if the National Water Policy is drafted today, it would need to show a much greater awareness of the present climate of opinion in regard to many matters…’ *(Ibid at p.56)*