

INTERNSHIP REPORT

ON

RIGHT TO WATER AND IT'S EVOLUTION IN INDIA

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Submitted to

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Date of Submission: 15 July 2025



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ABSTRACT

Water is a fundamental resource for human survival and growth, yet its recognition as a justiciable right has been a gradual process in Indian policy and legal jurisprudence. This paper analyses the evolution of the right to water in India from historical, constitutional, civil society, and policy perspectives. Starting with the traditional community-based water system and colonial interventions post-independence, it explores the gradual emergence of rights through judicial interpretation of Article 21 of the Constitution.

It critically examines the Constituent Assembly Debates on whether and how the framers of the Constitution engaged with water-related concerns. The relative silence on this issue, when contrasted with the present-day interpretation of Article 21, shows a broader shift in constitutional thought—from a minimalist vision of fundamental rights to an expansive and socially embedded one.

Further, the paper analyses the evolution of policy governance and regulatory frameworks on water in India (since independence to the present). Judicial pronouncements by the Supreme Court and High Courts are instrumental in bridging constitutional silences, particularly through the creative interpretation of dignified life and the right to life, which includes clean drinking water, health, and good sleep. Besides, the paper engages with international conventions, Sustainable Development Goals (SDGs), and India's policy response and commitments. By an interdisciplinary approach, this paper argues that the right to water in India has been recognised through judicial enactments, legislative action, civic mobilisation and engagement with international conventions.

Keywords: Right To Water, Judicial Interpretations, Policy Governance, Civil Society Movement, Article 21

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Introduction

Water has various uses and aspects. The survival of human civilisation depends upon water, which nurtures ecosystems, sustains economies, and is inherently linked to the questions of justice, equity and governance. The availability, accessibility, and quality of water affect both individual well-being and societal development. In political and legal jurisprudence, the question of who gets water, how much, and at what cost has always been a matter of discussion that links to justice, governance, and human rights.

In this context, the discourse on water rights is not merely a question of resource distribution. But inextricably linked to the values of constitutional democracy, human dignity and inclusive development. The question of whether access to water should be viewed as a human right has become a concern for both legal theorists and policymakers and for, more broadly, democratic citizenship. Democracy is not only about the right to vote or freedom of expression; it also means substantive access to the material resources for a dignified life. Particularly in this sense, the right to water forms a foundational pillar of democratic inclusion and constitutional rights. If citizens are to exercise their rights effectively, they must first survive, remain healthy, and participate in society without the everyday burden of fetching or purchasing clean water; accordingly, the denial of access to water amounts to the denial of democratic agency.

Additionally, water is an essential public good that is non-excludable in nature, i.e., use by one person does not stop another from using it, which raises questions about access, quality, and regulation matters. If the democratic framework and constitutional morality fail to ensure equitable access to water, risks of structural inequalities along the lines of caste, class, gender, and region increase

Worldwide, the recognition of water as a right has gained momentum in the past few decades. Whereas classical human rights documents such as the Universal Declaration of Human Rights

(1948)² and the International Covenant on Civil and Political Rights (1966)³ did not mention water rights explicitly; it happened through a gradual evolutionary process with the expansion of economic, social, and cultural rights. In continuation of this gradual process of evolution, the recognition of water as a human right has emerged from intensive debates and discussions among various nations, which resulted in key resolutions such as the United Nations General Comment No. 15⁴ (2002) and UNGA Resolution 64/292 (2010).⁵ These international decisions together propose that access to safe, sufficient, and affordable water is a fundamental human right essential to the realisation of other human rights. India has supported these positions internationally, but domestically, the evolution of water as a right has followed a more complex path.

In India, the Constitution does not explicitly mention the right to water as a legal or fundamental right. Yet, various judicial interpretations, legislative evolution, civil society activism, and international agreements have gradually filled this gap, which helped to recognise the notion of water as a fundamental right, particularly under Article 21 (right to life), which has been gradually constructed. Indian judiciary, particularly the Supreme Court, has expanded the meaning of Article 21 to include the right to clean and safe drinking water.⁶ This expansive interpretation of Article 21 has allowed us to treat water not just as a resource but as a legal right which is inherently tied to the values of constitutional democracy, human dignity and inclusive development.

However, this gradual process of recognising water as a legal fundamental right under Article 21 has not been straightforward. The water governance in India reflects the federal structure and constitutional framework where the Constitution confers the water subject to the states through

² United Nations, 'Universal Declaration of Human Rights', United Nations (United Nations), accessed June 18 2025, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

³ International Covenant on Civil and Political Rights, OHCHR, accessed June 18 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁴ UN CESCR. General Comment No. 15: The Right to Water (Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights). UN Doc. E/C.12/2002/11, 2002.

⁵ 'Resolution Adopted by the General Assembly on July 28 2010', accessed June 18 2025, <https://docs.un.org/en/A/RES/64/292>.

⁶ 'REALISING CITIZEN'S FUNDAMENTAL RIGHT TO CLEAN WATER | West DLSA', accessed June 18 2025, <https://dlsa.org/wd/2020/01/18/realizing-citizens-fundamental-right-to-clean-water/>.

entry 17 of the State List in Schedule VII.⁷ At the same time, the central government holds authority over the regulation of inter-state rivers. This unique constitutional design creates a dual responsibility that often leads to fragmented legislative policies across states, which further makes it difficult to realise the accessibility of water as a resource and fundamental right. This situation is further complicated by the absence of a comprehensive National Water Framework Law. Consequently, without a unified legal structure, it becomes difficult to define who gets water, how much, and of what quality, and due to this, the country continues to face challenges in translating the idea of water as a basic human right.

Understanding the recognition of water as a fundamental human right in the international and domestic legal sphere requires a comprehensive analytical framework. This paper traces the development of the right to water in India by combining legal doctrine, policy shifts, civil society interventions, and global normative frameworks, which could be best understood by interrogating the question of how water, which once used to be a community-managed resource has gradually been repositioned as a justiciable right through constitutional and various legal, regulatory frameworks.

To comprehensively trace the evolution of the right to water in India, this paper is divided into six sections, each offering a unique vantage point to the notion of the normative consolidation of the right to water in India. Section one examines the historical foundations of water governance, including indigenous practices and colonial interventions that shaped the early legal and institutional landscapes. Section two focuses on the constitutional framework by exploring the Constituent Assembly Debates and the structural division of water under Schedule 7 of the Indian Constitution. Then, section three analyses judicial pronouncements that have led to progressive recognition of water as integral to the right to life with dignity. Section four evaluates the policy and legislative developments in the post-independence era, evaluating the unity and gaps in governance. Section five highlights the role of civil society in democratising water rights and accessibility and helps in framing the notion of water as a fundamental right. Finally, the paper discusses the domestic developments within the global frameworks, including international human rights norms and India's obligations under the Sustainable Development Goals. This framework allows for a coherent exploration of the question of how water has come to be recognised and entitled as a fundamental right in India, followed by a conclusion.

⁷ 'Constitution of India » List II-State List', accessed June 18 2025, http://constitutionofindia.etal.in/schedule_7_2/.

As we delve into this, one important question arises, which is in contrast to the post-independence period, which is how Indian society conceptualised and governed water and its management prior to the constitutional and legal frameworks. Did customary rights, community-led water management, and traditional practices that were shaped by shared responsibility exist? And how were these practices, in turn, influenced under colonial rule?

1. Historical Foundations of Water Governance in India

To address this question, let us first focus on the historical roots of India's Water management structures and regulatory frameworks. These have evolved through centuries of cultural, spiritual, and political transformation. Before modern constitutional frameworks and institutions, water governance was managed by communities through customary norms, local practices, and decentralised institutions. However, these often reflected the social hierarchies that were embedded in Indian society. In opposition to that, the colonial intervention brought a dramatic shift from community-based systems to a centralised, bureaucratised model that was designed primarily to serve imperial economic interests. This discourse is thus divided into two parts. We will first look into the Indigenous and community-based practices dating back to the pre-colonial era, then the transformations imposed under colonial rule.

1.1 Pre-Independence Era: Customary Water Management and Local Institutions

Historically, water management in traditional Indian society was a decentralised practice. Local communities managed this system through indigenous institutions such as village councils (*gram sabhas*), caste panchayats, or elders' committees. These bodies coordinated the construction, cleaning, and repair of water bodies, managed water distribution, and resolved disputes. For instance, the *phad* system in Maharashtra allowed for rotational water sharing managed by farmers

themselves.⁸. In South India, temple institutions often took responsibility for maintaining and managing tanks and wells.⁹.

However, these governance practices were deeply embedded in social practices and hierarchies. Access to water was regulated not just by ecological constraints but by caste and gender. Dalit communities were often denied access to common village wells.¹⁰ Women, though central to water collection, had minimal role in water governance decisions.¹¹. Thus, while community systems promoted sustainability, they often failed the test of equity.

Despite their limitations, these systems offered valuable principles like local control, sustainability, and integration with socio-cultural norms. These ideas would later form critiques of centralised governance and inspire modern-day efforts toward participatory and community-based water management.

1.2 Colonial Transformations and Early Legal Frameworks

British colonialism completely changed the relationship between traditional communities and their responsibility towards water resources. The primary focus of colonial policies was revenue generation, commercial agriculture, and engineering-led development over accessibility, sustainability and local empowerment. As a result, the traditional, community-led systems were displaced by large-scale irrigation networks, which were managed by the colonial bureaucracy.

⁸ For more details see: 'Traditional Diversion-Based Phad Irrigation Systems Help Mitigate Risk of Crop Failure in the Drought-Prone Farmer Suicide Belt of Vidarbha, Maharashtra', accessed June 15 2025, <https://www.indiawaterportal.org/agriculture/farm/traditional-diversion-based-phad-irrigation-systems-help-mitigate-risk-crop-failure>; Mukund Dharashivkar, 'Two Ancient Irrigation Systems of India - Paper Presented at the National Seminar on Water and Culture (2007)', India Water Portal, February 13 2011, <https://www.indiawaterportal.org/agriculture/farm/two-ancient-irrigation-systems-india-paper-presented-national-seminar-water-and-culture>.

⁹ 'Lessons in Water Management from Neglected Chola Era Stepwells | Chennai News - Times of India', accessed June 15 2025, <https://timesofindia.indiatimes.com/city/chennai/lessons-in-water-management-from-neglected-chola-era-stepwells/articleshow/72329093.cms>.

¹⁰ 'Dalits' Access to Water Patterns of Deprivation and Discrimination', accessed July 6 2025, https://www.researchgate.net/publication/249777000_Dalits'_Access_to_Water_Patterns_of_Deprivation_and_Discrimination.

¹¹ Hannah Johns, *Stigmatization of Dalits in Access to Water and Sanitation in India* (New Delhi: National Campaign on Dalit Human Rights, n.d.), 8/1, 3rd Floor, South Patel Nagar, New Delhi-110008, India.

Amongst all these, one of the most influential colonial interventions was the construction of canal systems in northern and western India. These included major projects like the Ganga Canal (1854) and the Upper Bari Doab Canal (1875). These canals were not engineered to serve common people, but they were meant for colonial interests, which were to increase land productivity for cash crops like cotton, indigo, and sugarcane and to expand tax revenues. The creation of new infrastructure often disrupted local hydrological cycles and displaced traditional water systems.¹²

The colonial rule also introduced new laws that gave the state formal control over water. Laws such as the **Northern India Canal and Drainage Act (1873)** gave the government the authority to build, maintain, and charge common people for using them.¹³

The law also has provisions for imposing fines and penalties for using or damaging them without permission. Similarly, the **Indian Easements Act (1882)** took things even a step further by making water access a legal right that had to be proven with documents. This step further devastated the marginalised communities because traditionally, these groups relied on water based on local customs, which had no written records. As a result, their accessibility to water could now be easily challenged or may even be taken away.¹⁴

These colonial laws did not just only bring new rules—they uprooted the way marginalised communities had lived with water for generations. Earlier, what was once seen as a shared resource was now treated as state property. Suddenly, people had to start paying for something they had always seen as a shared gift of nature.¹⁵ Water, which used to be once freely accessed and managed through community ownership, was now treated like a commodity—with a price tag. The control shifted from village elders to distant bureaucracies with state regulation. Revenue departments began charging water cess, disrupting the notion of water as a free public resource. Bureaucratised irrigation departments replaced locally accountable governance structures.

¹² David Gilmartin, 'Scientific Empire and Imperial Science: Colonialism and Irrigation Technology in the Indus Basin', *The Journal of Asian Studies* 53, no. 4 (November 1994): 1127–49, <https://doi.org/10.2307/2059236>.

¹³ 'Northern India Canal and Drainage Act, 1873 - Act No. XX of 1873', accessed June 15 2025, <http://www.commonlii.org/in/legis/pb/act/nicada1873anxo1873363/#s2>.

¹⁴ 'The Indian Easements Act, 1882', accessed June 15 2025, <https://indiankanoon.org/doc/82950642/>.

¹⁵ 'Water in British India: The Making of a "Colonial Hydrology" - D'Souza - 2006 - History Compass - Wiley Online Library', accessed July 6 2025, <https://compass.onlinelibrary.wiley.com/doi/full/10.1111/j.1478-0542.2006.00336.x>.

To make matters worse, water laws and regulatory frameworks were scattered across multiple institutional departments—irrigation, public health, municipalities, and forest—with little coordination between them. This fragmented water governance infrastructure created more confusion and inefficiency among the masses, a legacy that continued even after independence. As a result, policies often clashed or overlapped, leaving people in confusion with unclear responsibilities and inconsistent rules.¹⁶

Even though gaps began to show in the colonial water governance system—its ecological harm and social dislocation—systemic change was never really pursued. Reports by engineers like Sir Arthur Cotton, who supported tank-based irrigation, did try to draw attention to the value of local systems. However, their ideas were quietly pushed aside as the focus shifted to big canal projects that brought in revenue and more governmental control.¹⁷ In the eyes of the colonial State, water, land, forests, and minerals were not something to be shared but something to be owned. The rivers and lakes that communities had long cared for became the property of a distant government, and people were slowly writing out the story of their own resources.

The impact of this shift produced changes. Age-old indigenous knowledge systems, collective responsibility, and ecological balance were pushed to the margins. In their place came a top-down, technocratic approach—one that saw water as a matter of infrastructure and engineering, not of life, culture, or justice. This was not just a change in administration; it was a rupture in the relationship between people and nature.

Independent India inherited this fractured system. The question that emerged was: would the newly written Constitution repair this relationship? Would it recognise water not just as a resource but as a right—something every person was entitled to, regardless of power or privilege?

2. Water rights and constitutional framework of India

2.1 Constituent Assembly Debates

As India came out of colonial rule, it faced the enormous task of rebuilding the fragmented and often inequitable water governance systems and regulatory frameworks, which we inherited from

¹⁶ Radhika Singh and Shail Joshi, *Managing the Water Crisis in Bundelkhand, India: A Governance Approach*, MPRA Paper No. 109067 (Massachusetts Institute of Technology, May 19 2020), <https://mpra.ub.uni-muenchen.de/109067/>.

¹⁷ Cotton Sir Arthur, *Public Works in India: Their Importance. With Suggestions for Their Extension and Improvement*. (London: W.H. Allen & Co., 1854).

the colonial era. In that response, the Constitution-making process was more than just a legal exercise; it was a chance to abridge the gap left by colonial policies. There emerged a hope, after years of living under a system where water was treated as the property of the State, not the people, that access to water could be reimagined as a basic right, inherently linked with justice, dignity, and equality for all.

However, that hope largely remained unfulfilled in the initial Constituent Assembly debates as water management structures and regulatory frameworks were given less attention. The framers of the Constitution largely remained silent on the subject. However, this silence does not indicate that water was not considered important. On the contrary, it reveals the complexities and limitations of the framers who were working within.

The framing of the Indian Constitution highlighted a critical moment that laid the foundation for a newly emerged nation based on justice, equality, and dignity. It was a time to rethink the legal and institutional framework with the very values that would shape the new India. In that spirit, there was a possibility that access to water could be recognised as a fundamental right, inseparable from justice and equality. Nevertheless, that possibility remained unrealised.

When we look closely at the Constituent Assembly Debates (1916–1949), it reveals a striking absence of any discussion on water as a fundamental right.¹⁸ While topics such as education, labour, and health were given attention, water mainly remained at the margins. References to water appeared in relation to agricultural irrigation, sanitation, and public health, but these were mainly discussed in terms of administrative responsibility rather than justiciable entitlements. We can understand this omission best when we place it within the larger context of how socioeconomic rights were imagined and constrained in the early framing of the Constitution.

The framers of the Indian Constitution acknowledged the question of socioeconomic rights with caution. They knew these rights, such as access to food, housing, education, and water, were essential to a life with dignity, but at the same time, they also recognised the practical limitations of a newly independent nation. So, the framers of the Indian Constitution placed them in Part IV of the Constitution, which is Directive Principles of State Policy, instead of placing them under

¹⁸ 'Giving the Green Signal: The Supreme Court and the Environment', Supreme Court Observer (blog), accessed July 6 2025,

Part III of the Indian Constitution, where they would be legally enforceable as Fundamental Rights. These principles were not binding laws but moral commitments that were meant to guide the State toward a just and equitable future. Scholars like Granville Austin have termed the Indian Constitution a “seamless web” where Directive Principles were expected to inform and guide the enforcement of Fundamental Rights.¹⁹

This constitutional setup suggests that even though water was not discussed explicitly in the Constituent Assembly, the framers were likely to consider it among the many services that the welfare state would be obligated to provide for its citizens over a period of time. So, the silence on the water as right is not a sign that it was cornered. Instead, it shows how legal thinking and ideas about rights were still new and were developing back then, influenced by real-life experiences.

2.2 Directive Principles and the Implicit Recognition of Water

Even though the Constitution’s Part III doesn’t explicitly discuss water as a fundamental right, the Directive Principles offered an implicit foundation for its future recognition. For instance, Article 39(b) mandates that the State must control how the nation’s material resources are owned and distributed.²⁰

Similarly, Article 47 imposes a duty on the State to raise the level of nutrition and standard of living and improve public health. And it’s clear that none of these aims can truly be met without access to clean drinking water.²¹ While Article 47 itself remains non-justiciable in courts, it has served as a moral policy for courts and lawmakers in advancing water rights.

The Directive Principles of State Policy helps in shaping the moral principle of the Constitution.²² Within this moral ethos, access to water is seen as something far more fundamental: a basic

¹⁹ 'The Indian Constitution : Cornerstone of a Nation : Austin, Granville : Free Download, Borrow, and Streaming : Internet Archive', accessed June 15 2025, <https://archive.org/details/the-indian-constitution-cornerstone-of-a-nation>; A Seamless Web” Neeraja Jayal’s Review of India Working a Democratic Constitution: The Indian Experience by Granville Austin in Biblio May-June 2000', accessed June 15 2025, <https://asianstudies.github.io/area-studies/SouthAsia/SAserials/Biblio/austinwdc.html>.

²⁰ 'Article 39 in Constitution of India', accessed June 18 2025, <https://indiankanoon.org/doc/555882/>.

²¹ 'Article 47 in Constitution of India', accessed June 18 2025, <https://indiankanoon.org/doc/1551554/>.

²² Granville Austin, 'The Indian Constitution : Cornerstone of a Nation', p.95. accessed July 6 2025, <https://archive.org/details/the-indian-constitution-cornerstone-of-a-nation/page/n5/mode/2up>.

condition for living a life of dignity and for realising other rights that truly matter, like health, education, and livelihood.

Over the years, this deeper understanding of the directive principles gradually reshaped how courts interpreted the Constitution. The judiciary began to realise that without guaranteed access to water, the fundamental right to life under Article 21 would remain incomplete.²³ A landmark decision in India's Constitution came with the *Minerva Mills Ltd. v. Union of India* (1980), where the Supreme Court recognised that Fundamental Rights and Directive Principles are not separate at all.

Instead, they belong together, forming a single, interconnected vision of justice. While Fundamental Rights offer the strength of legal enforceability, the Directive Principles serve as the moral compass pointing the way toward a just and compassionate society. This insight led the courts to expand the scope of rights under Article 21, the right to life, by drawing upon the values articulated in Part IV of the Indian Constitution.²⁴

The interconnection gained even greater significance in the recent years. Courts increasingly realise that a life of dignity transcends mere existence; it fundamentally requires having access to clean water, a healthy environment, and basic public health. So even though the Constitution does not explicitly mention the right to water, that right has implicitly grown through judicial interpretation and through the efforts of policy advocates and civil society.

In many ways, the Directive Principles have become the Constitution's conscience. Starting from the 1990s onward, as environmental awareness grew and public interest litigations (PILs) finally gave a voice to ordinary citizens, courts increasingly used Article 21 as a tool for justice. Water, once overlooked, began to be recognised in part III of the Indian Constitution, and not just for survival but for dignity and equality.

2.3 Water in Federal Division of Powers

The way the Constitution divides the responsibility of water reflects not just a legal choice but a historical legacy—one that is inherited from the colonial system. We see that water management was mostly formed in the States. This is laid out in Schedule VII, where Entry 17 of the State List

²³ *Bandhua Mukti Morcha v. Union of India*, AIR 1984 SC 802 (Supreme Court of India, December 16, 1983).

²⁴ *Minerva Mills Ltd. v. Union of India*, AIR 1980 SC 1789, para. 331.

places control over things like water supply, irrigation, canals, and storage under state control. At the same time, Entry 56 of the Union List empowers Parliament to regulate and develop inter-state rivers and river valleys.

This dual allocation for water management has produced both opportunities and challenges. On one hand, it allows states to design water policies truly based on their local needs. On the other hand, it has often led to fragmented water management practices, poor coordination between inter-states, and politicisation of water disputes. This inherent institutional and structural limitation has prevented the development of a uniform national framework on water rights and management.²⁵

The federalism that is envisioned in the Constitution treats water mainly as an administrative and economic resource rather than a socio-ecological or rights-based concern. This approach has often led to inter-state water conflicts, judicial arbitration, and delays in long-term national strategies for sustainable and equitable water management. In recent years, the Jal Shakti Ministry has attempted to bring coherence through central programs like the Jal Jeevan Mission, but legal harmonisation still remains elusive.

3. Judicial Interpretation and the Right to Water

Though the Constitution didn't explicitly recognise the right to water, it was the judiciary that stepped in to bridge the normative and legal vacuum. The evolution of the right to water into a fundamental right under Article 21 has been a judicial innovation, especially through the expansive and creative interpretation of the Article, which protects the Right to Life.

3.1 Creative Interpretation of Article 21

To understand how a broader interpretation of Article 21 unfolded, we need to go back to the early developments that have happened under Article 21 of the Indian Constitution. Initially, Article 21 guaranteed the protection of life and personal liberty, stating: "No person shall be deprived of his life or personal liberty except according to procedure established by law."²⁶ The early interpretation of this provision was relatively narrow. But, from the 1980s onward, the Supreme

²⁵ Ramaswamy R. Iyer, *Water: Perspectives, Issues, Concerns* (New Delhi: Sage Publications, 2003).

²⁶ 'Article 21 in Constitution of India', accessed June 18 2025, <https://indiankanoon.org/doc/1199182/>.

Court began to read this provision in the context of socioeconomic rights that are considered to be essential for anyone to live a life of dignity.

An important time came with *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi* (1981), where the Court declared that the right to life doesn't only include the right to live but is about living with human dignity and everything that comes with that. This new way of interpreting the Constitutional text laid a foundation that allowed Article 21 to grow beyond its literal meaning. It opened the door for the judiciary to say that the 'right to life' includes things like clean drinking water, a safe environment, and basic sanitation because, without these, life loses its dignity and meaning.²⁷ In the following, we will delve into two key court decisions that dramatically shaped India's right to water. First is *Subhash Kumar v. State of Bihar*, and second is *A.P. Pollution Control Board v. Prof. M.V. Nayudu*. In **Subhash Kumar v. State of Bihar (1991)**, the Supreme Court explicitly held that water is a constitutional right. The Court declared that "the right to life includes the right to enjoyment of pollution-free water and air for the full enjoyment of life."

This judicial pronouncement was a turning point, which recognised water as a justiciable right under Article 21; its significance lay in formulating water not just as a need but as a legal right that is protected by the Constitution.²⁸

In **A.P. Pollution Control Board v. Prof. M.V. Nayudu (1999)**, the case further expanded the legal jurisprudence of the right to water. The Court emphasised that water is not only a natural resource but a public trust. Where the State has the responsibility to manage it wisely and sustainably. The court judgment argues for the preservation of water for present and future generations and that the State has a fiduciary responsibility to ensure its sustainable use. The Court also held that access to safe drinking water is fundamental to life and health.²⁹

As the judiciary continued to interpret the Constitution, they developed fundamental legal principles such as the 'Public Trust Doctrine' and 'Intergenerational Equity.'

²⁷ *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*, AIR 1981 SC 746, para. 6.

²⁸ *Subhash Kumar v. State of Bihar*. AIR 1991 SC 420.

²⁹ *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, AIR 1999 SC 812, paras. 10–12

The **Public Trust Doctrine** says that the State holds natural resources like air, sea, and water in trust for the public. It was explicitly devised in the case *M.C. Mehta v. Kamal Nath* (1997), where the Court held that the State has no authority to privatise or transfer such resources if it harms public access or the health of our environment.³⁰ Whereas, the **Intergenerational Equity principle** argues that present generations hold the environment and its resources in trust for future generations. The principle has been cited in several judgments, including *T.N. Godavarman Thirumulpad v. Union of India* (2002).³¹ These legal principles have jointly strengthened the normative foundation upon which the right to water rests. However, these principles have been devised through the mechanism of Public Interest Litigations (PILs).

While the Supreme Court stands at the forefront, numerous High Court judgements have also played an important role such as the Kerala High Court, in *Attakoya Thangal v. Union of India* (1990), held that the right to clean water is part of the right to life and protection under Article 21.³² Similarly, the Andhra Pradesh High Court in *L.K. Koolwal v. State of Rajasthan* (1988) interpreted duties like sanitation and water supply as part of the right to life.³³

These judgements collectively reinforce the idea that judicial pronouncement has been the principal architect in shaping water as a justiciable fundamental right, even without bringing any constitutional amendment.

4. Policy Governance and Legislative Evolution

The gradual evolution of water as a public good, as well as its management structures and regulatory frameworks, was achieved through legislative and policy developments. However, in the early days, governance on water management structures and regulatory frameworks remained fragmented. The latter half of the twentieth century witnessed a drastic shift towards environmental regulation and public health, leading to the emergence of water rights discourse.

³⁰ *M.C. Mehta v. Kamal Nath & Ors.* (1997) 1 SCC 388 (SC).

³¹ *T.N. Godavarman Thirumulpad v. Union of India*, (2002) 10 SCC 606 (SC).

³² *Attakoya Thangal v. Union of India*, 1990 (1) KLT 580 (Kerala HC).

³³ *L.K. Koolwal v. State of Rajasthan*, AIR 1988 Raj 2.

4.1 The River Boards Act 1956

The River Board Act of 1956 is considered one of the earliest policy interventions aimed at institutionalising interstate water management across state boundaries under **the River Boards Act of 1956**.³⁴ The Act provided a framework for forming river boards to manage and regulate inter-state river waters and valleys by focusing on the challenges and barriers posed by the federal structure of the Indian Constitution, where water falls under the State List (Entry 17, Schedule VII) and inter-state rivers under the Union List (Entry 56, Schedule VII) (Iyer 2003).³⁵ However, the truth is that its objectives largely remained ineffective due to its limited scope and non-obligatory nature, which resulted in minimal institutional efficacy. River boards didn't constitute timely, leading to protracted inter-state socio-political conflicts, such as those over the Cauvery, Krishna, and Ravi-Beas rivers, which remained unresolved for over ten years.³⁶ The failure of the River Board Act highlights the constitutional complications that constrain uniform water governance across the country and also that we don't have a broad, comprehensive national legal framework for water at that time.

The challenges of the River Boards Act of 1956³⁷ especially the failure to manage the shared water bodies effectively, which contributed to more damage to our environment and caused unprecedented ecological degradation.³⁸ As a result, the focus of water policy began to shift, and the need not only to manage interstate rivers but also to protect them from pollution and ensure their sustainability. This formed the stage for the creation of a new act called the **Water (Prevention and Control of Pollution) Act of 1974**. This Act was considered of huge importance as it moved water governance into the realm of public health, ecological preservation, and recognising citizen's rights to clean water.

³⁴ 'The River Boards Act, 1956', accessed June 15 2025, <https://indiankanoon.org/doc/1608688/>.

³⁵ Ramaswamy R. Iyer, *Water: Perspectives, Issues, Concerns* (SAGE, 2003).

³⁶ Ramaswamy R. Iyer, *Water: Perspectives, Issues, Concerns* (New Delhi: Sage Publications, 2003).

³⁷ 'The Water (Prevention And Control Of Pollution) Act, 1974', accessed June 15 2025, <https://indiankanoon.org/doc/867156/>.

³⁸ Ramaswamy R. Iyer, *Water: Perspectives, Issues, Concerns* (New Delhi: Sage Publications, 2003).

4.2 Water (Prevention and Control of Pollution) Act, 1974³⁹

The Act established pollution control boards at both national and State levels. These boards were conferred with powers to enforce compliance and to punish anyone who pollutes the water body.⁴⁰ While the Act didn't explicitly provide that we have a right to clean water, this law introduced a regulatory framework that indirectly recognised the right to clean and safe water. It did this by focusing on controlling water pollution right from its sources, which was important because, by then, polluted water had become a huge public health concern for everyone.

The Act gained strength through judicial activism when the Supreme Court, in 1991 *Subhash Kumar v. State of Bihar*, interpreted that having a clean environment is an important part of our fundamental right to life under Article 21 of the Constitution. This landmark judgment widens the scope of environmental protection by linking it with human dignity and public health.⁴¹ Thus, we can say the 1974 Act shifted the discourse from mere water as a public resource to a protected environmental asset by linking governance with public welfare and constitutional rights. The Act laid the foundation for regulating pollution in water bodies. The increasing interconnectedness of water and environmental issues paved the way for the **Environment (Protection) Act of 1986**.⁴²

4.3 Environmental (protection) act 1986

The Act further consolidated the environmental and ecological concerns by empowering the central government to take necessary measures with respect to the protection and improvement of the environment. The Act was not just limited to water; it covered other expansive regulatory frameworks and authority, which later provided the formulation of water quality standards and pollution control measures, thereby building upon the foundational framework laid out by the 1974 Water Act.⁴³ The Act also represented the Indian response to international environmental concerns, particularly the 1972 United Nations Conference on the Human Environment in Stockholm, in

³⁹ Ibid.

⁴⁰ 'CPCB | Central Pollution Control Board', accessed June 15 2025, <https://cpcb.nic.in/water-pollution/>.

⁴¹ *Subhash Kumar v. State of Bihar*. AIR 1991 SC 420.

⁴² 'The Environment (Protection) Act, 1986', accessed June 15 2025, <https://indiankanoon.org/doc/182701402/>.

⁴³ CPCB | Central Pollution Control Board', accessed June 15 2025, <https://cpcb.nic.in/water-pollution/>.

which India showed its willingness to environmental protection as central to the nation's development agenda.

The Act also enhanced the role of public interest litigation (PIL) in environmental governance, which enables the citizens and civil society to hold the government and polluters accountable, thus democratising access to environmental justice.⁴⁴

The legal framework which emanates from the Environment (Protection) Act of 1986,⁴⁵ led the subsequent evolution of water policy in India, which later began to reflect the shifting priorities. As environmental protection became central to the development agenda, it ultimately led to the creation of the normative and administrative space for a comprehensive approach to water governance. We found in the **National Water Policies**, which tries to balance the developmental goals with sustainability, equity, and participatory management, making a shift in how the State envisioned and managed its water resources.

4.4 National Water Policies: A Shifting Paradigm

National Water Policies (NWP), formulated in 1987, 2002, and 2012, show the evolving legislative framework on water governance, which reflects the growing environmental, social, and equity concerns. The 1987 NWP puts emphasis on irrigation and hydroelectricity, reflecting the development-centric agendas of the post-independence era.⁴⁶ However, the Act also acknowledges the need for conservation and integrated management of the environment and ecology, which were taken into account in the later NWP frameworks. For instance, the 2002 NWP reflected a shift from the earlier NWP framework, which explicitly recognised water as a scarce resource and called for equitable and sustainable management efforts.⁴⁷ The Act highlights the importance of

⁴⁴ 'Pro-Human Rights but Anti-Poor? A Critical Evaluation of the Indian Supreme Court from a Social Movement Perspective | Human Rights Review', accessed June 15 2025, <https://link.springer.com/article/10.1007/s12142-007-0004-8>.

⁴⁵ 'The Environment (Protection) Act, 1986', accessed June 15 2025, <https://indiankanoon.org/doc/182701402/>

⁴⁶ 'Tracing the History of India's National Water Policies: Perspectives for National Water Policy 2020 | NLS Enlaw', accessed June 15 2025, <https://enlaw.nls.ac.in/tracing-the-history-of-indias-national-water-policies-perspectives-for-national-water-policy-2020/>.

⁴⁷ 'Salient Features of The National Water Policy', accessed June 15 2025, <https://www.pib.gov.in/newsite/PrintRelease.aspx?relid=70832>.

management, pollution control, and the involvement of local communities in water governance. The 2002 NWP is based on water as a social resource, which implicitly argues for rights-based frameworks.

The 2012 NWP puts emphasis on the right to safe and adequate water, equity, and priority to drinking water and domestic uses over other demands.⁴⁸ The Act advocated for the full cost recovery of water services with targeted subsidies to marginalised groups, which in turn recognises the economic and social justice dimensions.

Although these NWPs are non-binding in nature, they reflect a gradual policy evolution aligning with international norms, such as the United Nations General Assembly's 2010 Resolution recognising water and sanitation as human rights.⁴⁹ However, implementation challenges remain because of institutional fragmentation, resource constraints, and the division of water in the federal structure of the Constitution.

4.5 The Jal Shakti Ministry: Towards Rights and Accessibility

Later, the Ministry of Jal Shakti was created in 2019, which consolidated water management functions that had previously spread across various ministries, highlighting a political and administrative commitment to integrate water resource management.⁵⁰ This institutional reform aligns with the Sustainable Development Goal (SDG) 6 on clean water and sanitation, which emphasises universal access, water-use efficiency, and ecosystem restoration.

This new phase of governance can be illustrated through two flagship missions. The first is the Jal Jeevan Mission (JJM), and the second is Atal Bhujal Yojana (ABHY). The JJM aims to provide functional household tap connections to every rural household by 2024, addressing the

⁴⁸ 'National Water Policy 2012 | NFS', accessed June 15 2025, <https://nfs.inroad.in/policy-viewer?id=PNCNAE000109>.

⁴⁹ United Nations General Assembly (UNGA). "Resolution 64/292: The Human Right to Water and Sanitation," A/RES/64/292, 2010.

⁵⁰ Ministry of Jal Shakti. "Jal Jeevan Mission: Transforming Lives." Government of India, 2023. <https://jalshakti-dowr.gov.in>.

fundamental right to water access and targeting women and vulnerable groups.⁵¹ Whereas ABHY focuses on groundwater management through community participation and scientific interventions to ensure sustainable use and restoration of the groundwater.

These initiatives framed the right to water in policy and practice framework, which moved beyond just recognising it in measurable outcomes. These policy measures reflect water as a human right embedded in developmental priorities, though challenges remained regarding infrastructure quality, affordability, and governance transparency.

4.6 Critical Assessment

Despite these legislative and policy frameworks, India's water governance remains fragmented and marked by differing competing jurisdictional claims. The federal division of water management between unions and states, the legislative landscape, and varied institutional capacities hinder the establishment of a uniform, rights-based water framework.⁵² For instance, Inter-state river disputes exacerbate this fragmentation by politicising the issue of water.

Secondly, equity in accessibility still remains a central concern. Marginalised communities, including Scheduled Castes, Scheduled Tribes, and women, often experience systemic barriers to accessing safe drinking water, reflecting socioeconomic and caste-based disparities.⁵³ While policies like the JJM target these inequities, effective implementation is uneven.⁵⁴

In addition to that, legislative recognition of water as a right is still largely judicial rather than statutory, which emphasises the need for a national water framework or constitutional amendment to enshrine this right clearly and uniformly.

Among these lacunas in statutory recognition and equitable access, subsequently, the role of civil society becomes important. This means that where formal governance has struggled, people's

⁵¹ Ibid.

⁵² Ramaswamy R. Iyer, *Water: Perspectives, Issues, Concerns* (New Delhi: Sage Publications, 2003).

⁵³ S. Kumar, R. Singh, and P. Sharma, "Access to Safe Drinking Water and Sanitation in India: Challenges and Initiatives," *Environmental Science and Policy* 92 (2019): 89–95.

⁵⁴ Shreehari Paliath, 'Jal Jeevan Mission Faces Challenge to Ensure Water Flow', May 18 2024, <https://www.indiaspend.com/governance/ensuring-sustainable-water-supply-for-tap-connections-a-challenge-for-jal-jeevan-mission-908372>.

movements have stepped in, asserting that water is not just a necessity but a fundamental right grounded in dignity and justice.

5. Role of Civil Society Movements

Grassroots protests and litigation by civil society have helped recognise water as a socioeconomic and environmental right. For instance, Narmada Bachao Andolan, the Plachimada water struggle, Jal Satyagraha, and various social audit initiatives have helped to shape the notion of water as a right. Differing interpretations of constitutional texts and civil society activism have influenced public discourse and legal consciousness. Later, these domestic movements have also increasingly been identified and connected to international norms, which prepared the groundwork for broader global commitments.

The role of Public Interest Litigations (PILs) has been instrumental in the evolution of environmental jurisprudence in India. NGOs, activist lawyers, and citizens have used PILs to bring issues such as water pollution, unsafe drinking water, and inequitable access to the Court's attention. For example, in *People's Union for Civil Liberties v. Union of India* (2004), the Supreme Court linked the right to food with the right to water and sanitation in schools, thereby mandating the provision of potable water as part of the Mid-Day Meal Scheme.⁵⁵ This demonstrates how judicial activism initiated by such Public Interest Litigation reinforces the claims of civil society movements.

Among these movements, the Narmada Bachao Andolan best exemplifies how domestic or grassroots activism has transformed water-related development into a rights-based discourse. The **Narmada Bachao Andolan (NBA)** was launched in 1985 by Medha Patkar with tribal, farmer, and activist groups. It focuses on the displacement and rehabilitation of affected communities during the construction of large dams such as Sardar Sarovar. NBA emphasised the principle that water infrastructures should not override constitutional guarantees of dignity, habitat, and livelihood. Asserting that water cannot be harnessed at the cost of human rights.

The Supreme Court in 2000 ruled that water is a "basic need" of human life and is intrinsically related to Article 21 of the Right to Life. Thus bringing constitutional rights in relation to dam

⁵⁵ *People's Union for Civil Liberties v. Union of India*, (2004) 12 SCC 104 (SC).

construction and displacement.⁵⁶ Later, the judicial pronouncement in NBA's activism transformed the infrastructural debates into rights-based discourse, hence establishing a profound connection between water and dignity.

Another striking form of resistance that civil society actively engaged in emerged from the Narmada Valley struggle: **Jal Satyagraha**. A protest that used the water as both a symbol and a site of dissent. Protestors submerged themselves knee-deep in dam waters. Originally adopted in the late 1990s and revived in 2015, this form of resistance dramatised the lived injustice of displacement and lack of water rights. The Time magazine also reported, "Women have been at the forefront of India's resistance movement... [and] Jal Satyagraha, an essential feature of the protest movement".⁵⁷ Thereby shaping public consciousness and state awareness regarding rights-based governance.

Another grassroots struggle that reshaped the legal and moral understanding of water rights was the Plachimada movement in Kerala.

The **Plachimada water struggle** (2002–2017) is a defining moment in water rights activism.⁵⁸ Participated by Adivasi communities led by Mayilamma, who fought against Coca-Cola's groundwater extraction and pollution in Kerala. In December 2003, the Kerala High Court declared that groundwater is public property held in trust by the State and prohibited unrestricted corporate extraction.⁵⁹

This legal recognition of water as a public trust reified in the Plachimada Declaration affirmed water as a fundamental right rooted in constitutional morality and environmental jurisprudence.

⁵⁶ 'Plachimada's Loss', Frontline, May 5 2005, <https://frontline.thehindu.com/the-nation/article30274479.ece>; 'Narmada Bachao Andolan', in *Wikipedia*, April 23 2025, https://en.wikipedia.org/w/index.php?title=Narmada_Bachao_Andolan&oldid=1286973872; Namita Wahi, 'The Evolution of the Right to Water in India', *Water* 14, no. 3 (January 2022): 398, <https://doi.org/10.3390/w14030398>.

⁵⁷ Nilanjana Bhowmick/New Delhi, 'How Women Have Changed India Through Political Protests', *TIME*, January 15 2020, <https://time.com/5765702/india-protests-women/>.

⁵⁸ Goutam Karmakar, 'Plachimada Struggle and the Environmentalism of the Poor: (In)Justice and Activism in Mayilamma: The Life of a Tribal Eco-Warrior', accessed June 15 2025, <https://www.tandfonline.com/doi/full/10.1080/1013929X.2024.2410071>.

⁵⁹ The Hindu Net Desk, 'Water Wars: Plachimada vs Coca-Cola', *The Hindu*, July 15 2017, sec. Environment, <https://www.thehindu.com/sci-tech/energy-and-environment/water-wars-plachimada-vs-coca-cola/article19284658.ece>.

Beyond protests, social audits have also helped people to hold water systems accountable. Initiated in Rajasthan during the 1990s and later supported under MGNREGA, these audits have used the Right to Information Act (2005) and public hearings to scrutinise the effective struggles of their transformative impact on law and policy, pushing institutions to reinterpret water not just as a resource but as a constitutional right rooted in dignity and justice.

5.2 Towards Institutional and Judicial Recognition

The Supreme Court's interpretation of Article 21, which included access to water, was explicitly influenced by NBA and environmental PILs, helping bridge constitutional silence with rights. Meanwhile, Plachimada's declaration deepened public understanding of water as a shared and protected resource.

These campaigns functioned as constitutional agents by expanding legal concepts beyond the written text. Through interaction with courts, legislatures, and bureaucracy, movements shifted the framing of water from a utility to a constitutional right. These movements have engaged with the global human rights framework to strengthen their claims.

6. Global water movements and India

The emergence of international human rights created a space for Indian civil society activism. Civil society movements like the NBA and the Plachimada movement turn to global discourses on water justice to support domestic claims, insisting on alignment between local action and international obligation.⁶⁰ Civil society movements placed their agendas within the global rights framework by doing this, they could now appeal to universal values while pushing for state accountability. This synergy between local activism and global norms validated water justice as part of a larger human rights architecture.

To fully understand the evolution of the right to water in India, it becomes important to situate it within the broader framework of international legal norms and global development because India's approach to water rights has been influenced by evolving international conventions, such as human rights instruments, and the Sustainable Development Goals (SDGs).

⁶⁰ 'Resistance in Kerala', Frontline, February 12 2004, <https://frontline.thehindu.com/the-nation/article30221051.ece>.

The explicit recognition of the right to water in international law has been a recent phenomenon. For instance, the Universal Declaration of Human Rights⁶¹ (1948) and the International Covenant on Economic, Social and Cultural Rights⁶² (ICESCR, 1966) do not mention water as a right; General Comment No. 15 of the UN Committee on Economic, Social and Cultural Rights (2002) marked a landmark shift. It asserts that the right to water is necessary to live a dignified life and is inextricably linked to Article 11, which relates to the right to an adequate standard of living, and Article 12, which is related to the right to health of the ICESCR (UN CESCR 2002).⁶³

The 2010 United Nations General Assembly Resolution (A/RES/64/292)⁶⁴ Further integrated this normative shift by explicitly recognising the right to safe and clean drinking water and sanitation as a human right, though not legally binding. The resolution carries a significant amount of moral and political weight in itself and has catalysed the inclusion of water rights in national legislation and judicial frameworks across many countries (UNGA 2010).

The mention of water is also found in several international agreements, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁶⁵, the Convention on the Rights of the Child (CRC),⁶⁶ And the Rio Declaration on Environment and Development (1992).⁶⁷ India ratified the ICESCR in 1979 and accepted the legal obligation to progressively realise the rights enshrined within it, including those that had been clarified by interpretations like

⁶¹ United Nations, 'Universal Declaration of Human Rights', United Nations (United Nations), accessed June 18 2025, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁶² 'International Covenant on Civil and Political Rights', OHCHR, accessed June 18 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁶³ UN CESCR. General Comment No. 15: The Right to Water (Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights). UN Doc. E/C.12/2002/11, 2002.

⁶⁴ 'Resolution Adopted by the General Assembly on July 28 2010', accessed June 18 2025, <https://docs.un.org/en/A/RES/64/292>.

⁶⁵ 'Convention on the Elimination of All Forms of Discrimination against Women New York, December 18 1979', OHCHR, accessed June 18 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

⁶⁶ For more details, see; 'Convention on the Rights of the Child', OHCHR, accessed June 18 2025, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

⁶⁷ 'Rio Declaration on Environment and Development', accessed June 18 2025, <https://www.cbd.int/doc/ref/rio-declaration.shtml>.

General Comment No. 15.⁶⁸ However, India's rationale reflected a preference for recognising water as a development goal rather than as a legal right. Indian judiciary and legislative policy frameworks have begun to incorporate the objectives of global developments into their pronouncements and policy frameworks. For instance, in *A.P. Pollution Control Board v. Prof. M.V. Nayudu* (1999), the Supreme Court of India explicitly refers to General Comment No. 15 and emphasises the need for the Indian legal system to align with international human rights standards, especially those pertaining to environmental justice and sustainable development.⁶⁹

6.1 The Sustainable Development Goal 6 and India's Response

One of the most important international frameworks that is of huge significance to India's water governance is the United Nations Sustainable Development Goals, adopted in 2015 as part of the 2030 Agenda for Sustainable Development. SDG 6 says, "Ensure availability and sustainable management of water and sanitation for all."⁷⁰ It places the right to water and sanitation within the global development agenda. This goal consists of several targets:

- Achieve universal and equitable access to safe and affordable drinking water (6.1)
- Improve water quality by reducing pollution and minimising the release of hazardous chemicals (6.3)
- Increase water use efficiency and sustainable withdrawals (6.4)
- Implement integrated water resources management (6.5)

These targets attempt to balance the normative, ecological, and technical dimensions of water governance.

India's response to SDG 6 includes, for instance, the Swachh Bharat Mission and Jal Jeevan Mission (JJM). These schemes have been monitored and institutionally led by the NITI Aayog and the Ministry of Jal Shakti. Both were designed to achieve universal sanitation and drinking water

⁶⁸ UN. Committee on Economic, Social and Cultural Rights (29th sess. : 2002 : Geneva), ed., General Comment No. 15 (2002), The Right to Water (Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights) (Geneva: UN, 20), <https://digitallibrary.un.org/record/486454>.

⁶⁹ *A.P. Pollution Control Board v. Prof. M.V. Nayudu*, AIR 1999 SC 812.

⁷⁰ For more details see; 'A/RES/70/1 Transforming Our World: The 2030 Agenda for Sustainable Development', 2030; 'THE 17 GOALS | Sustainable Development', accessed June 18 2025, <https://sdgs.un.org/goals>.

access, which is directly related to SDGs targets 6.1 and 6.2. The *Jal Jeevan Mission* 2019 aims to provide functional household tap water connections to every rural household by 2024. Wherein as of 2024, over 12 crore households have received tap water connections, with improvements in states like Himachal Pradesh and Telangana⁷¹, while universal sanitation coverage was declared in 2019.⁷²

Another major initiative that aligns with SDG target 6.3, which aims to improve water quality and ecosystem health, is the *Namami Gange program*. The program aims to clean and rejuvenate the Ganga River through sewage treatment infrastructure, community engagement, and industrial pollution reduction.⁷³

However, the progress was not even. While these policies coincide with SDGs, their proper implementation remains a challenge, especially in spheres concerning quality, continuity, and sustainability. The *Composite Water Management Index* developed by NITI Aayog (2019) reveals stark disparities among Indian states. Some states like Gujarat, Madhya Pradesh, and Andhra Pradesh have performed comparatively well, while other states like Uttar Pradesh, Bihar, and Jharkhand have shown underperformance. The report also warned of an approaching water crisis, with 600 million Indians facing high to extreme water stress and nearly 200,000 deaths annually due to inadequate access to safe water.⁷⁴

Although India has internalised SDG ideals in policy, formal recognition of water rights still relies on courts and governance reform. As long as water remains a policy intent and judicial expectation, its realisation remains partial and contingent.

Conclusion

The recognition of the right to water and its evolution can be traced back to historical practices, constitutional developments, judicial interpretations, civic engagement and India's obligations to

⁷¹ Ministry of Jal Shakti. "Jal Jeevan Mission Dashboard." Government of India, 2023. <https://ejalshakti.gov.in/jjmreport/JJMIndia.aspx>.

⁷² Ibid.

⁷³ Ministry of Jal Shakti. "Jal Jeevan Mission Dashboard." Government of India, 2023. <https://ejalshakti.gov.in/jjmreport/JJMIndia.aspx>.

⁷⁴ 'Composite Water Management Index | Energy', accessed June 18 2025, <https://energy.vikaspedia.in/viewcontent/energy/environment/composite-water-management-index?lgn=en;>

international conventions. As the Constitution did not explicitly mention water as a fundamental right, judicial interpretation under Article 21 has made it a fundamental right within the broader discourse of the right to life and dignity. This shows a breakthrough from the conventional interpretation of the right to a broader one. In addition to the judicial pronouncement, policy frameworks and civil society movements have shaped the water rights discourse, which reinforces the notion of water as a basic fundamental human right. At the same time, India's engagement with international conventions and the Sustainable Development Goals further shows her commitment to achieving universal access and sustainability. However, its implementation remains an ongoing challenge.

The Indian experience reflects that the right to water is an outcome of judicial activism, democratic mobilisation, and normative evolution ranging from customary practices to global human rights discourses. The right to water, therefore, remains a legal construct and a lived struggle for all to secure its entitlement.