

# WHITE BLACK LEGAL LAW JOURNAL ISSN: 2581-8503

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

LEGAL

# AN ANALYSIS OF THE ROLE OF GROUNDWATER AND RAINWATER HARVESTING ON THE RIGHT TO SAFE DRINKING WATER IN INDIA

AUTHORED BY - NISCHAL M S

#### ABSTRACT

Rainwater harvesting and groundwater are two of the most important sources of water resources in India, especially in its rural areas. The right to safe drinking water is a crucial component right to life, according to the Indian Constitution. Judicial interpretations have emphasized this right, leading to actions targeted at preserving and safe guarding water resources. In order to preserve groundwater resources and rainwater and guarantee that all residents have access to safe drinking water, both the government and individuals have obligations.

In order to guarantee India's right to safe drinking water, this study discusses the crucial roles that groundwater and rainwater harvesting play. Due to a variety of geological, political, economic, cultural and social causes, the traditional water harvesting technologies have encountered difficulties, leading to a greater dependence on surface and groundwater resources. A sustainable long-term strategy to manage water resources is now essential as water shortage becomes increasingly obvious, especially in metropolitan areas with a fast-rising population. This research study thus highlights the significance of sustainable water resource management via rainwater harvesting and responsible groundwater use to protect the basic right to safe drinking water in India. It emphasizes the analysis of the existing regulations in order to find our if there exists a need of aggressive government action and citizen involvement to ensure water security and to satisfy the expanding water demands of the country's population.

#### **KEYWORDS**

Rainwater harvesting, groundwater, safe drinking water, Constitution of India

#### **RAINWATER HARVESTING**

For decades, water harvesting has been a part of the Indian society. Numerous traditional water harvesting systems have deteriorated or lost their relevance in the modern world owing to their inability to meet the demands of the people who depend on them due to a variety of geological, political, economic, cultural and social factors. While significant study and documentation has been undertaken and accumulated on the first component of the decrease in water collecting tradition, less is known about the second component of the decline in water collection tradition. In addition, it is clear that there is resistance to accepting the appearance, expansion, and eventual collapse of new water collecting activities as they occur through time.<sup>1</sup>

#### Rainwater Harvesting and the Right to Safe Drinking Water

Water shortage has highlighted the need of developing a long-term plan to address the issue in recent years, particularly in metropolitan areas. More than 490 million people live in cities around the country.<sup>2</sup> By 2030, approximately 600 million people will live in India's cities, according to projections.<sup>3</sup> Following India's independence, the country's water resources, which had previously been administered at the communal and individual levels, were brought under the state's jurisdiction. The principal water managers were no longer the local communities and families. As a consequence, the ability to manage rain and flood water for everyday requirements has decreased, and there is an ever-increasing dependency on surface and ground water.

India is a nation endowed with rain, with an average annual precipitation of roughly 1,170 mm. Rainwater harvesting is a strategy for bettering water resource management that refers to the practise of collecting rainwater directly and then either storing it for immediate use or refilling the groundwater resources. According to a UN report released in advance of the World Water Forum in Kyota, Japan from March 16 to 23, 2003, "World water supplies are rapidly depleting and population growth, pollution and global warming will combine to reduce the average person's water supply by a third in the next 20 years<sup>4</sup>". The quality of India's water supply was rated 120th out of 122 nations at the time. The need of the hour is for optimal

<sup>2</sup> United Nations, "68% of the world population projected to live in urban areas by 2050", <u>https://www.un.org/development/desa/en/news/population/2018-revision-of-world-urbanization-prospects.html</u> (last visited Apr 13, 2022).

<sup>&</sup>lt;sup>1</sup> Ernest Appiah-Kusi, "Is Rainwater Harvesting the key solution for Water Scarce Semi-Arid Regions?", *available at:* <u>https://publications.iwmi.org/pdf/H041809.pdf</u> (Last visited on Apr 13, 2022.)

<sup>&</sup>lt;sup>3</sup> National Urban Digital Mission, NUDM Census (2015)

<sup>&</sup>lt;sup>4</sup> United Nations, World Water Forum: Final Report (2003)

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sustainable development, maintenance of quality, and efficient use of the country's water resources to meet the growing demands on this precious natural resource, with active participation of all, in order to achieve the country's accelerated, equitable economic development. The failure of monsoons in several parts of the country, resulting in drought conditions and severe drinking water shortages, particularly in 1174 blocks of Desert Development Programme districts.

India consumes around 20.1 percent of the world's water, with a per capita usage of 297.7 cubic metres. In light of this, it has become vital to investigate other solutions for addressing the community's fundamental needs for clean drinking water. Rainwater harvesting, which is easy, cost efficient, and readily adaptable by everybody, is the only solution that is technically possible, socially desired, and commercially viable in this respect. Rainwater is physiologically clean, gentle, and devoid of organic materials, as is widely known. Rainwater harvesting, which directs rainwater that falls on roof tops to storage tanks or subterranean tanks for future use, has shown to be a successful approach for water conservation. Rainwater harvesting is the process of collecting and storing water from a catchment surface. Water harvesting also encompassed operations such as collecting surface and ground water, preventing losses due to seepage and evaporation, and other tactics aimed at conserving and maximising the limited water supply.

Water harvesting, in general, is the process of collecting rainwater directly from the sky. The main source of fresh water is rainwater. Water harvesting aims to help people recognize the value of rain and make the most use of it where it falls. Despite the fact that there has been a lot of rain, there is no water. Before we get started, there's one thing to consider. Who owns the rainfall that falls on the land, or does the government have any sovereign rights over it? This is a critical issue since rainwater harvesting cannot be adopted and promoted until and until individuals who gather rainwater domestically are given some type of ownership.

Domestic rainwater gathering necessitates the transfer of ownership of water collected domestically using rainwater collection facilities. As a result, a change in official support of home rainwater collection must imply that the government no longer has sovereign rights over rainwater.

The Tamil Nadu Municipal Laws (Second Amendment) Ordinance, 2003, is the most

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noteworthy piece of law since it mandates rainwater collecting for existing private and public structures. A new provision (A) to S.255 of the Chennai Municipal Corporation Act has been inserted as a result of the Ordinance. S.215 of the Tamil Nadu District Municipalities Act, 1920; S.295 of the Madurai City Municipal Corporation Act, 1971; and S.295 of the Coimbatore City Municipal Corporation Act, 1981 were all amended in the same way. In the event of default, the Ordinance permitted the Commissioner or any other person authorized by him to construct a rainwater collecting system in the building after providing notice to the owner or occupant. The cost, as well as any additional expenditures, is subsequently borne by the owner. Furthermore, the Act mandated that the building's water supply be turned off until the rainwater collection structure was installed. Despite the challenges given by the short notice, it was discovered that the decision to build the rainwater collecting structure was supported by the majority of Chennai residents. As a result, we can see how rainwater harvesting may affect people's right to water and consequently their right to safe drinking water.

#### Legislations regarding Rainwater Harvesting in India

Rainwater harvesting has long been a priority for the Indian government and state governments, considering that India receives a large amount of rainfall that may be put to good use. Because of this, several states are encouraging the use of rainwater harvesting systems in their territories via programmes and legislations.

• Ahmedabad

For all constructions above 1,500 square metres, the Ahmedabad Urban Development Authority (AUDA) required rainwater collecting in 2002. According to the legislation<sup>5</sup>, a single percolation well is needed to provide ground water recharge for a cover area more than 1,500 square metres. Every 4,000 square metres of additional coverage necessitates the installation of a new well.

• Bangalore

A rainwater harvesting system is now required for any new construction in the city of Karnataka in order to save water and ensure that groundwater is replenished<sup>6</sup>. The new rule mandates the installation of a rainwater collection system on all houses larger than 2400 square feet  $(40 \times 60 \text{ feet})^7$ .

<sup>&</sup>lt;sup>5</sup>Amrita Didyala, "AUDA's rainwater harvesting diktat sees some success, more is required", *The Indian Express*, Apr. 8, 2008

<sup>&</sup>lt;sup>6</sup>Special Correspondent, "BWSSB tweaks law to make RWH must for 30x40 sites", *The* Hindu, Sep. 6, 2021. <sup>7</sup> *Ibid.* 

• Chennai, Tamil Nadu

Mandatory rainwater collection in three-story buildings (irrespective of the size of the rooftop area). The installation of rainwater harvesting systems is required before any new water or sewer connections may be established on the property.<sup>8</sup>

• Gujarat

State roads and buildings officials said that rainwater collection is now obligatory for all government buildings<sup>9</sup>.

• Haryana

According to the Haryana Urban Development Authority, rainwater collecting is now mandatory in all new projects, regardless of roof size (HUDA)<sup>10</sup>. The CGWA has urged all institutions and residential colonies in Gurgaon town and the adjoining industrial sectors to implement water harvesting in accordance with its recommendations.<sup>11</sup> There was a March 31, 2002 deadline for all constructions equipped with tubewells in notified areas. According to the CGWA, tubewell drilling is also restricted in some places.

Himachal Pradesh

Rainwater storage facilities are required for all commercial and institutional buildings with a plinth area more than 1000 square metres, tourist and industrial complexes, hotels, and other structures.<sup>12</sup> No objection certificates, which are required by a number of statutes, will not be issued to building owners until the new requirement is met. In order to flush the toilet, the rainwater storage tank will need to be connected. Using a rate of 0.24 cft/sq m of roof area, it is suggested that buildings on the site have rainwater*I* storage facilities corresponding to the size of the roofs.

• Hyderabad, India

The collection of rainwater is now obligatory in all new buildings with a floor space of 300 square metres or more. The implementation date for this new rule was scheduled for June 1, 2001.<sup>13</sup> Additional legislation was also approved, including a government order for all municipalities in Andhra Pradesh.

 <sup>&</sup>lt;sup>8</sup> Rain Water Harvesting Tn.gov.in, <u>https://www.tn.gov.in/dtp/rainwater.htm</u> (Last Visited on Apr 13, 2022)
<sup>9</sup> Cgwb.gov.in, <u>http://cgwb.gov.in/gw\_profiles/st\_Gujarat.htm</u> (last visited Apr 13, 2022)

<sup>&</sup>lt;sup>10</sup> The Haryana Water Resources (Conservation, Regulation And Management) Authority Act, 2020.

<sup>&</sup>lt;sup>11</sup> *Ibid*.

<sup>&</sup>lt;sup>12</sup> TNN, "HP to push for rainwater harvesting", *The Times of India*, Aug. 18, 2019.

<sup>&</sup>lt;sup>13</sup> GOVERNMENT OF HYDERABAD, HARVEST RAINWATER-HARNESS GROUND WATER ENJOY THE BENEFITS YEAR AFTER YEAR, <u>https://www.hyderabadwater.gov.in/en/index.php/?cID=183</u> (Last Visited on Apr 13, 2022)

• Indore, Madhya Pradesh

The collection of rainwater is now obligatory in all new buildings with a floor area more than 250 square metres. A property tax break of 6% has been offered to encourage the installation of rainwater harvesting devices<sup>14</sup>.

• Kanpur, Uttar Pradesh

All new buildings with a footprint of more than 1000 square metres must now collect rainwater. Rainwater harvesting has been mandated in Kanpur as well<sup>15</sup>.

• Kerala

Kerala's government issued a notice on January 12, 2004, revising the 1999 Kerala Municipality Building Rules in order to include rainwater harvesting devices in new construction<sup>16</sup>. A rainwater harvesting system shall be an integral feature of all new building constructions, unless otherwise stated in a town planning scheme pursuant to Section 109A of the Building Code.<sup>17</sup>

• Mumbai, Maharashtra

State officials said that rainwater collection is now obligatory for all buildings on plots greater than 1,000 square metres<sup>18</sup>. There was an October 2002 deadline.

• New Delhi

According to the Ministry of Urban Affairs and Poverty Alleviation, all new constructions with a roof area of more than 100 square metres and all plots with an area of more than 1000 square metres have been required since June 2001 to gather rainwater. The Central Ground Water Authority (CGWA) has made rainwater collection mandatory in all institutions and residential colonies in recognised districts (South and southwest Delhi and adjoining areas like Faridabad, Gurgaon and Ghaziabad). This also applies to all constructions with tubewells in the defined areas of the country.<sup>19</sup> The due date for submissions was March 31st of that year.

According to the CGWA, tubewell drilling is also restricted in some places. The Delhi Water Board (Amendment) Bill was also introduced and notifications were issued by the CGWB.

<sup>18</sup> *Ibid*.

<sup>&</sup>lt;sup>14</sup>. Legislation on Rainwater Harvesting Rainwaterharvesting.org,

http://www.rainwaterharvesting.org/Policy/Legislation.htm (Last Visited on Apr 13, 2022)

<sup>&</sup>lt;sup>15</sup> Ibid. <sup>16</sup> Ibid.

<sup>&</sup>lt;sup>10</sup> *Ibia*. <sup>17</sup> *Ibid*.

<sup>&</sup>lt;sup>19</sup> Rainwater Harvesting Guidelines (18 Oct, 2016)

• Port Blair

To ensure that rainwater may be used in the house for reasons other than drinking, the Port Blair Municipal Council (PBMC) issued an order in 2007 to all construction workers<sup>20</sup>. A adequate spout or gutter for rainwater collection is required under the existing building bylaws, which date back to 1999, so that residents of the municipal area may benefit from a water scarcity. The PBMC had issued a four-month warning to all building owners in the municipality that it would enforce the restrictions if they did not comply.

Rajasthan

For all public and private organizations as well as all homes in metropolitan regions with plots greater than 500 sq m, the state government has mandated rainwater collection as a condition of doing business<sup>21</sup>.

• Tamil Nadu

According to an ordinance of July 19, 2003, rainwater harvesting was made mandatory for all public and private constructions in the state of Tamil Nadu<sup>22</sup>. It is necessary to finish the construction of the rainwater collecting facilities by August 31, 2003. the Commissioner or any person authorised by him in this regard may... provide rainwater harvesting structure in such building and recover the cost of such provision, including incidental expenses... in the same manner as property tax" if it is not provided as required by the ordinance. It also warns residents that their water supply would be cut off if rainwater collection structures aren't built.

#### GROUNDWATER

A lot of people think of lakes, rivers and streams when they think of a water supply. These are all water sources that are found on the surface of the earth or on land, thus known as surface water. However, almost all of the world's potable freshwater is groundwater, accounting for around 97% of it<sup>23</sup>. The subsurface storage of water is estimated by the UN at 10 million cubic kilometres. About 4.2 million cubic kilometres of water are within 0.8 kilometres of the Earth's surface, according to the US Geological Survey. According to a research cited by Environment

<sup>&</sup>lt;sup>20</sup> Legislation on Rainwater Harvesting Rainwaterharvesting.org,

http://www.rainwaterharvesting.org/Policy/Legislation.htm (Last Visited on Apr 13, 2022) <sup>21</sup> *Ibid.* 

<sup>&</sup>lt;sup>22</sup> Rain Water Harvesting Tn.gov.in, <u>https://www.tn.gov.in/dtp/rainwater.htm</u> (Last Visited on Apr 13, 2022)

<sup>&</sup>lt;sup>23</sup>.Earth's Freshwater National Geographic Society, <u>https://www.nationalgeographic.org/media/earths-fresh-water/</u> (Last Visited on Apr 13, 2022)

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Canada, the earth's surface would be covered by 120 metres of groundwater, but just 0.25 metres of freshwater from the surface<sup>24</sup>. While estimates of the amount of groundwater vary, scientists generally agree that the earth's crust contains a significant amount of water.

#### What is groundwater and where is it found?

Water that collects underground is referred to as groundwater. It may be found between loose soil particles and rock, as well as in cracks and fissures in rocks. Water may be found in varying quantities in various kinds of rocks and earth. The saturated zone is where the soil and rock are saturated with water, whereas the unsaturated zone is where the soil and rock are not saturated. The water table is the top of the saturated zone.

When it rains, the water infiltrates the soil and percolates downwards until it reaches the water table. Some types of soils allow more water to infiltrate than others. Permeable surfaces, such as sand and gravel, allow up to 50 percent of precipitation to enter the soil. Rainwater can take years or even decades to reach the water table. Due to the immense volume of groundwater, once rainwater reaches the water table, it often remains there for an extremely long period of time. Some water that is currently stored in the ground may be rain that fell hundreds or thousands of years ago. When it rains, water seeps into the ground and eventually reaches the water table. Soil water penetration varies from soil to soil. Up to 50% of rainfall may seep into the soil on permeable surfaces like sand and gravel. Rainwater may not reach the water table for years or even decades. Precipitation that reaches the water table usually remains there for an extremely long period due to the vast volume of groundwater. Rain that fell hundreds of years or thousands of years ago may still be present in the soil.

#### **Groundwater in India**

Across India, groundwater serves more than 80 percent of rural water demands, as well as 50 percent of urban industrial water needs<sup>25</sup>. In the process of percolating through soil and into subterranean pools known as aquifers, precipitation is transformed into groundwater. Many communities depend on groundwater as their primary supply of drinking water. The migration of contaminated ground water out of an aquifer and into surrounding bodies of surface water

<sup>&</sup>lt;sup>24</sup> Ibid.

<sup>&</sup>lt;sup>25</sup> India Groundwater: a Valuable but Diminishing Resource worldbank,org,

https://www.worldbank.org/en/news/feature/2012/03/06/india-groundwater-critical-diminishing (Last Visited on Apr 13, 2022)

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may occur in the event that the aquifer becomes contaminated for any cause. Many different types of economic activity are reliant on water, which is the most important resource for all living things on our planet.

The use of innovative ways for obtaining ground water from exceedingly deep depths and exceptionally large quantities has become more important in agriculture, frenetic industrial production, and enlarged household, urban, and commercial activities, among other things. In spite of the high cost of the borewell and submersible pump, along with the possibility of failing to uncover the aquifer, borewells have become increasingly popular due to their ease of drilling, ability to extract water from greater depths, and lack of maintenance required to keep the sides from collapsing. Borewell drilling is a time-consuming and expensive process. It is as a result of this that groundwater demands are rising in the twenty-first century.

Water contamination is caused by a variety of reasons, including sediments, soil pollution, hazardous wastes and chemicals, and the over-extraction and exploitation of groundwater resources, to name a few.

Although it is considered a human right, the hunt for water rights is also a human duty. Groundwater rights rules are based on the corpus juris of water law, which is based on water rights and is predicated on the concept of water rights.

A state's legislative power over matters such as water supply and irrigation is mandated by the Constitution, and canals, drainage, embankments, and water storage are all examples of such legislation. Groundwater management is the unique responsibility of the states. Overconsumption and its consequences have been frequent in southern states, whilst several northern states have experienced underutilization of their resources. It is the common law, when supplemented with the Indian Easements Act of 1882, that governs ground water management when a state does not have ground water management legislation<sup>26</sup>. The adoption of the land ownership theory of water rights method does not achieve the goals set forth in the country's constitution.

<sup>&</sup>lt;sup>26</sup> Indian Easements Act, 1882, Act no 5 of 1882.

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Volume 3 Issue 1 | April 2025 Due to the introduction of new technologies for the extraction of ground water, it is becoming more difficult to comply with the older law. Additionally, people's constitutional right to clean drinking water, which is a vital component of their human rights, is being treated with contempt. Privatization and commercialization of groundwater have shown a clear and significant trend toward overexploitation, owing to the fact that extraction is not limited to the owner's personal use. When it comes to ground water rights, this is because our country's approach to property ownership is founded on common law principles, which is not the case in other countries. In legal sense, "land" includes water, which is in direct opposition to the assumption that ground water belongs to the landowner, as the notion suggests. In reality, water in the ground is seen as a chattel that belongs to the landowner who owns the water rights to it. A difference is recognised by common law between water that percolates deep under the surface and water that rushes to the top. Percolating water is regarded to be a part of the land on which it is found, and as a consequence, it is considered to be the property of the person who owns the ground on which it is found. The right to use something for as long as you wish is not the same as the right to possess something entirely. 17 He has the right to capture and control it as much as he likes, with no obligation to his neighbours, and he is the underlying owner in a limited sense, as outlined in the previous paragraph. The act of digging wells on one's own property to capture and appropriate subsurface percolating water that would otherwise flow into one's own well or stream does not give one the right to sue another for doing so. When an act is carried out for an inappropriate or malicious cause, a condition known

as damnum absque injuria occurs. For the reason that percolating water may be utilised by any landowner whose property contains it, he or she has an absolute right to do so and may take whatever amount he or she wants, leaving his or her neighbour's well empty.

The Indian Easement Act expressly recognises the common law presumption of ownership<sup>27</sup>. When riparian rights are recognised and established by law, regardless of whether the stream is on the surface or beneath, there are riparian rights. The result is that everyone with ownership rights to property through which ground water runs has the right to utilise the water, regardless of who owns the land in question. Groundwater is accessible to landowners; however, the landless and tribals, who typically have only community rights to land, are denied access to this valuable resource. The common law rule has been abused in order to deny landowners the right to utilise the streams underneath their properties.

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#### Groundwater and the Right to Safe Drinking Water

When the Constitution was being formed, no one realised just how critical it was to protect water supplies from depletion. In other words, the founding fathers of the United States of America did not include any protections to preserve the nation's water supply in its constitution. Groundwater in India is restricted in two key ways by the country's legal groundwater policy. A small number of regimes throughout the globe do not explicitly vest governmental ownership of groundwater rights in the groundwater user (in the significance of the administration and its authorities). Another point to mention is that individual states, rather than the federal government, are in responsible of dealing with concerns relating to water. The majority of states have either enacted groundwater laws or are in the process of finalising legislation. Groundwater resources in India are legally protected by the government.

Water is recognised as a state by the Indian Constitution in "Entry 17" of List II in the seventh schedule, which is included in the seventh schedule of the Indian Constitution. Governments, on the other hand, do not have entire control over water resources. It is required for "Entry 17" to meet with the Union List requirements set out in "Entry 58" of the seventh Schedule in order for it to be considered valid and effective. Despite the fact that "Entry 18" of the State List II confers groundwater rights over real property, water now comes under "Entry 17" of the same list and is governed by "Entry 56" of the state list, which was previously unregulated. As a result, the jurisdiction over groundwater usage are all responsibilities that fall within the jurisdiction of Parliament, which may be exercised via its administrative and legislative powers. Contrary to common assumption, the Supreme Court may still be relied upon to resolve legal disputes and to examine the constitutionality of legislative proposals. The provision of safe and drinkable water to Indian inhabitants is a basic task committed to states by the Constitution, as is the need that the resource be utilised in a fair and equitable way while causing the least amount of environmental harm possible.

Article 38<sup>28</sup> of the Constitution According to Article 38(1) of the Indian Constitution, the state is required to verify that there is a societal need for an improvement in the welfare of persons in which legal, social, economic, and political objectives are clearly specified before implementing any policy. As a result, the state has a responsibility to ensure that the

<sup>&</sup>lt;sup>28</sup> The Constitution of India, art. 38

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preservation and management of material assets, as well as the operations of the monetary framework, do not result in the concentration of wealth and the means of production.

Both the state and its inhabitants are responsible for maintaining and developing the environment, as stated in Articles 48A<sup>29</sup> and 51A<sup>30</sup>. Despite the fact that these objectives are explicitly stated in the constitution, this is the case. In other cases, directive principles may be unenforceable since they merely represent a responsibility or obligation to the state or to the people. However, if the situation is seen appropriately, it might be beneficial. It was decided by the Supreme Court of India in the Ratlam Municipality Case<sup>31</sup> that an individual may apply to the court for a writ of mandamus against state and municipal institutions for failing to comply with legal obligations.

Article 21<sup>32</sup> of the Indian Constitution recognises the right to life as includes the right to safe drinking water, which has been maintained by the Indian Supreme Court in a number of landmark decisions. This has been made feasible by the benign interpretations of the Supreme Court of India and the Indian High Courts of Justice. The right to additional rights such as food, shelter, and work have all been interpreted by our court on a number of different occasions. Groundwater management and conservation are inextricably linked to the recognition of new rights, such as the right to safe drinking water and the right to a healthy environment, and are thus closely linked. Access to water was not mentioned in our Constitution since it is considered a basic human right. The right to water is only included in Article 21 as a result of judicial decisions. When the case Subhash Kumar v State of Bihar<sup>33</sup> was decided, it established an important precedent by declaring the right to life to be a basic human right. Article 21 also recognised the right to live in a pollution-free environment as well as the right to live one's life to the fullest extent possible. The Supreme Court may be approached if someone's rights are infringed in violation of Article 32, and an appeal can be lodged. Consequently, the right to water has been emphasised in a number of court decisions, making it an absolute legal need in this nation today.

<sup>&</sup>lt;sup>29</sup> The Constitution of India, art. 48A

<sup>&</sup>lt;sup>30</sup> The Constitution of India, art. 51A

<sup>&</sup>lt;sup>31</sup> Municipal Council, Ratlam vs Shri Vardhichand & Ors, 1980 AIR 1622,

<sup>&</sup>lt;sup>32</sup> The Constitution of India, art. 21

<sup>&</sup>lt;sup>33</sup> Subhash Kumar vs State Of Bihar And Ors, 1991 AIR 420.

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A decision in Attakoya Thangal v. Union of India<sup>34</sup> found that excessive water pumping and distribution violated Article 21 of the Indian Constitution, which was upheld by the Supreme Court. The Lakshadweep Island administrative authorities granted permission for wells to be dug in order to meet the growing demand for drinkable water on the island. According to the petitioners, there was a groundwater shortage on the islands, and excessive pumping may result in a total breakdown of the freshwater balance. Unanimously, the Gautam Uzir and Anr. V. Gauhati Municipal Corporation<sup>35</sup> were found to be accountable for ensuring that citizens have access to enough drinking water as well as conducting inquiries into concerns regarding the quality of the water.

It wasn't until 1978 that environmental constitutionalism gained traction in India, thanks to the Supreme Court's interpretation of the Maneka Gandhi case<sup>36</sup>. Instead than narrowing the notion of basic rights, the court determined that it was better to broaden rather than restrict it. Taking into consideration the Supreme Court's interpretation, new environmental legislation has been drafted. Every state is required to adhere to the court's finding that access to water is a basic human right under international law.

In addition, the government is subject to a number of responsibilities under the Fundamental Right to Water. A proactive approach by the government is required in order to avoid illicit groundwater extraction, overexploitation, and pollution of the groundwater basin from happening on a regular basis. Several limits on the illicit extraction and usage of groundwater have been imposed by the government of India in recent years. Several rulings banning business activity have been issued as a consequence of the recent events by the National Green Tribunal. In these instances, the state must take both legislative and administrative measures to prohibit commercial activity involving unlicensed water extraction from taking place on its territory.<sup>37</sup> As a result, we may confidently assert that the right to safe drinking water applies to groundwater as well as surface water.

<sup>&</sup>lt;sup>34</sup> Attakoya Thangal v. Union of India, (1990) 1 KLT.

<sup>&</sup>lt;sup>35</sup> Gautam Uzir and Anr. V. Gauhati Municipal Corporation, 1999(3)GLT110.

<sup>&</sup>lt;sup>36</sup> Maneka Gandhi v. Union of India, AIR 1978 SC 597.

<sup>&</sup>lt;sup>37</sup> Jayanta Boruah & Farzin Naz, "Groundwater Management under Indian Legal Framework", SSRN Electronic Journal (2020).

#### Conclusion

An essential component of the right to life under Article 21 of the Indian Constitution is the right to clean drinking water, and its implementation is inextricably linked to the sustainable use and management of rainfall and groundwater resources. This research has shown that India's growing water shortage and reliance on groundwater call for urgent focus on sustainable measures like rainwater collecting. Judicial readings, constitutional requirements, and legislative interventions draw attention to the duties of both the state and the people in guaranteeing water security. Still, despite legal frameworks and policy initiatives, issues like overexploitation, inadequate enforcement, and unequal access—especially for disadvantaged populations—remain. Changing to more inclusive, community-driven, and ecologically aware strategies is really vital. Ensuring that the basic right to clean drinking water is safeguarded for current and future generations depends on strengthening legal procedures, empowering local government, and promoting a culture of water conservation via education and incentives.

