

ABSTRACTS

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HUMAN RIGHTS APPROACH TO WATER MANAGEMENT : A CASE STUDY OF SARDAR SAROVAR PROJECT IN INDIA

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Introduction

Nearly 1/3rd of the territory of India is drought prone and 1/8th of its area is liable to flooding. Currently about 80% surface water of rivers goes to the sea unutilised, while the country reels under a regular cycle of the flood - drought - flood syndrome. The per capita availability of water has been reducing progressively owing to increasing population (361 million in 1951 to about 1 billion presently). It has come down from 3,450 m³ in 1951 to less than 1,250 m³ presently and by 2050 with a projected population of 1.6 billion it would only be 760 m³ as a national average (against the present world and the Asian averages of 7,420 m³ and 3,240 m³ respectively). More than 150,000 villages in India (out of around 587,000, i.e. 25%) still have acute water scarcity and quality problems and many more have unreliable water supply.

The State of Gujarat is characterised by a low, uneven and unreliable rainfall with a high coefficient of variance. On an average, three years, in a cycle of ten years are drought years. Currently, more than 9,000 villages, out of 18,000 in the State, are reeling under the worst-ever drought situation, which has worsened so badly that a few people have already lost their lives due to starvation and water riots. Plight of the people due to water scarcity has led to social tensions at many places. Over-exploitation of groundwater has led to salinity ingress (around 1,000 villages), excessive fluoride (3,400 villages) and excessive nitrite (800 villages) contamination, causing almost incurable fluorosis, are other major associated health hazards. To tackle this crisis, the State Government has to supply water through tankers and special water trains. For the first time in the history of the country, huge quantity of water from other states is being shipped over a long distance via sea route, through ships.

Scope

In the back drop of the provisions of the Indian Constitution - the ownership and control of material resources of the community to subserve common goal (Article 39), resolution of Inter-State Water Disputes (Article 262), and adoption of a National Water Policy (1987) etc., the paper analyses the issue of human rights of those affected by severe water shortages, for both irrigation and drinking purposes, especially for Gujarat.

In Gujarat, around 80% of water resources are concentrated in 20% of the area. The people suffering from acute water scarcity in around 80% of the area have a right to access to surplus quantity of water in the rest of the area and by regional transfer of the Narmada water. What is being achieved is fulfillment of *right to development* of these people and also the realisation of *collective right to full sovereignty over all their natural wealth and resources* (as enshrined in UN declaration on Human Rights to Development, December 1986 and reiterated in successive UN World Conferences at

Vienna, Cairo, Copenhagen and Beijing). The women in the majority of western and northern Gujarat villages have to undergo daily drudgery of fetching water from far off areas. Lack of access to safe drinking water, time lost in collecting and fetching available water, effects of head loading on women's health and the burden of women's household responsibilities – all have a detrimental effect on their health, and their overall general family welfare, including their income earning abilities. Moreover, due to this daily struggle of water, children in these areas are deprived of education, adequate nutrition, etc. Hundreds of thousands of people have been forced to migrate from these water-scarce areas dislocating them economically, socially and culturally. This definitely constitutes denial and violation of a range of economic, social and cultural rights contained in the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and number of other international human rights instruments. These rights include the right to work, the right to health, the right to food, right to education, the right to life etc. and children's right to development and right of survival (recognised by the UN Convention on the Rights of the Child).

The north-western part of the State, known as Kutch, forms the largest district of the State. Due to the cruel vagaries of nature, Kutch has the lowest annual rainfall i.e. 350 mm, and that too is highly unreliable. Seven years out of the last eleven years have been drought years for this district, and this has had significant adverse impacts on the socio-economic development of the area and the living conditions of its people. Desertification is assuming serious proportion in this region. Since it forms an international border with Pakistan, migration of people of Kutch in search of water, is a matter of serious security concern. The harrowing tales of the sufferings of the people from this part will be evident from the fact that out of 265 MCM of live storage capacity of 20 dams of this region, the available storage, as on 31st March 2000, was only 9%. The paper emphasises that while the issue of resettlement of people due to construction of dams is an important consideration, equally important is the acute deprivation of a far larger number of people. Both these groups need to be considered concurrently. The definition of 'underprivileged' needs to be adopted in a broader sense so that it includes those 'naturally underprivileged', who do not have access to a reliable source of safe water, and thus their human rights are being violated on a regular basis.

The efforts of the State to harness the waters of the Narmada River by Sardar Sarovar Project have been questioned by some individuals on the grounds of violation of human rights of the oustees. This school of thought holds that human rights of those subjected to involuntary displacement (including those of indigenous people) cannot be impaired on the ground of national sovereignty and national economic interest. They hold that such considerations may justify a Project, though they may not justify nullification of basic human rights. The displacement of tribals has often been termed as a "long cultural journey".

The Sardar Sarovar Project (SSP), a multi-state, multipurpose project, borne out of deliberations of a constitutional body, following the principle of 'Equality of Right' or 'Equitable Utilisation' of the whole course of an inter-state river seeks to provide drinking water to more than 8,000 villages and 135 urban centres, irrigation to around 2 million hectares of land and to produce 1,450 MW of hydropower, in addition to providing other benefits like flood control, recharge of groundwater, prevention of

salinity ingress, empowerment of women, development of fisheries, flourishing of flora and fauna, employment generation, etc. The "controlled volume concept" of water distribution, to be operated by computer-aided remote monitoring and control system in the canal network, will provide for judicious, timely and equitable distribution of water, ensuring the rights of the tail-enders in the command area, even 700 km away from the project, consisting primarily of small and marginal farmers, are protected. Active involvement of beneficiaries in the operation and management of the irrigation system will be achieved through participatory irrigation management (PIM).

In addition to highlighting the achievements of the project, the paper points at the need for a national policy on resettlement and rehabilitation (R&R), in view of the human rights concerns and also the need to incorporate *right of access to sufficient water on equitable and economically and environmentally sustainable basis* under the Indian constitution, along with stressing the need for building of human resources capabilities for dealing with R&R issues. Given the fact that the enormous quantities of water will be made available by the Project, the issue of water pricing not only as an economic instrument but also in view of its socio-political and cultural implications for the State, is discussed in the paper.

Results and Conclusion

The Project addresses the world-wide concern for human rights of people involuntarily displaced, not by statistical relativism but by a detailed mechanism of *pari passu* rehabilitation which aims that oustees improve (vast majority of cases) or at the very least (very limited cases) regain the standard of living that they were enjoying prior to their displacement, fully integrate with the community in which they are resettled and are provided with appropriate compensation and adequate social and physical rehabilitation infrastructure, including community services and educational and health facilities. Special legal safeguards have been provided for protecting the indigenous land rights of the tribals affected by the Project, in consonance with the International Labour Organisation Convention (107) *concerning the Protection and Integration of Indigenous and other tribal and semi-tribal population in independent countries*. The resettlement and rehabilitation (R&R) policy provisions now available for the SSP-displaced people are considered to be a package that carry the promises of development opportunities to the dispossessed for the first time in the country and can be translated into a national policy on R&R, which India lacks at present. Hence, in addition to the earlier *property compensation focus* for R&R issues, now the *people-centered development focus* has been developed. Carefully assessing the impoverishment risks (e.g. landlessness, joblessness, homelessness, marginalization, food insecurity, loss of access to common property and services, social disarticulation, etc.) the project builds up inter-agency synergies between existing programmes of integrated rural and tribal development with R&R efforts. The Project seeks to resolve the dichotomy between the dominant interventionist paradigm of development and participative and decentralised model, by using a balanced sustainable strategy of generating and distributing the water resources in a just and equitable way. Therefore, it harmonises the human rights of those affected by the Project with the human rights of those benefited by the Project.

Amidst the resurging awareness about the linkages of sustainable development of water resources (for the very sustenance of those deprived of food, water and energy) and its inherent consequences, managing water is continuously assuming an increasing enormity. Similarly, the rights of indigenous people shall also include their right to develop and join the main stream. A shift in paradigm is bound to occur when the conflict happens to be between those striving for a life and those striving for a better life. The debate of sustainable development being compatible or incompatible with large scale, ambitious, centrally controlled scheme does not necessarily end at a point but ends at a regime of 'Human Rights' where solution can be looked for. Even within this 'Human Rights' regime, *humanity* has the potential to act as a pivot point to strike a balance between the rights of affected and benefited people. The paper presents a 'Human Rights Approach' to water management within the framework of objectives such as sustenance, social justice and equity.