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RIGHT TO SAFE DRINKING WATER, AND THE IMPACT OF RAINWATER HARVESTING AND WATER PRIVATIZATION ON IT

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Abstract

Access to safe drinking water has emerged as an implicit fundamental right under Article 21 of the Indian Constitution, reinforced through judicial interpretation and international recognition. Yet, translating this right into practice remains challenging amidst rising water scarcity, pollution, and inequitable distribution. This paper critically examines two contrasting approaches, rainwater harvesting and privatization of water, in the context of conferring the right to safe drinking water. Rainwater harvesting, rooted in India's traditional water wisdom and now supported by statutory mandates, is explored as a sustainable, community-centered mechanism to augment supply, recharge aquifers, and secure local resilience. In contrast, privatization of water services is analyzed through policy experiences, case studies, and international comparisons, revealing both its potential efficiencies and its risks of commodifying an essential human need, thereby undermining equity and affordability. The study underscores that while rainwater harvesting strengthens the right to water by empowering communities, privatization requires stringent regulation to align with constitutional obligations and human rights principles. The paper concludes that only an integrated approach, blending conservation, public accountability, and carefully circumscribed private participation, can ensure the realization of safe drinking water as a justiciable right for all citizens.

Keywords: *Right to Safe Drinking Water, Rainwater Harvesting, Privatization of Water, Constitutional Law, Water Governance*

Introduction

Water is fundamental to life, and access to safe drinking water is increasingly seen as an essential human right. Yet around the world and in India, ensuring universal access to potable water remains a formidable challenge. Rapid population growth, urbanization, and climate change strain freshwater resources, making sustainability and equity in water supply pressing concerns. In this context, two divergent strategies often surface in policy debates, community-level conservation measures like rainwater harvesting, and market-driven approaches such as privatization of water services. Each approach offers a distinct pathway toward securing safe drinking water for all, carrying its own promises and pitfalls. This paper examines how rainwater harvesting and the privatization of water intersect with the realization of the right to safe drinking water, with a focus on the Indian legal and socio-political landscape (while drawing relevant global comparisons). We begin by outlining the legal recognition of the right to water, then analyze the role of rainwater harvesting as a tool of empowerment and resource augmentation, and finally critically assess whether privatization of water helps or hinders the goal of delivering clean drinking water as a basic right. The analysis maintains a doctrinal approach, rooted in constitutional principles, statutes, and case law, alongside policy developments and ground realities. Throughout, the aim is to discern how these strategies can confer, or undermine, the fundamental right to safe drinking water in India's evolving socio-legal context.

The Right to Safe Drinking Water: Constitutional and Legal Perspectives

The Constitution of India does not explicitly enumerate a "right to water." However, through decades of judicial interpretation, the right to safe drinking water has been read into the fundamental right to life under Article 21 of the Constitution. Article 21 guarantees that "no person shall be deprived of his life or personal liberty except according to procedure established by law." While the text is terse, the Supreme Court of India has expansively interpreted the right to life to include rights integral to a life with dignity, including the right to a clean and livable environment. As early as the 1980s, the Court recognized that environmental quality and public health are facets of Article 21. In *Bandhua Mukti Morcha v Union of India* (1984), a case concerning labour conditions, the Court observed that the right to life comprises the right to live with human dignity which may include protection of health and a clean environment[1]. Building on this foundation, subsequent rulings explicitly affirmed that access to clean water is inherent in the right to life.

A landmark precedent came with *Subhash Kumar v State of Bihar* (1991), where the Supreme Court held that the right to life "includes the right of enjoyment of pollution-free water and air for full enjoyment of life"[2]. In that case, the petitioner sought to prevent industrial pollution of a river, and the Court not only granted standing to raise the issue as a fundamental rights violation but also declared that if water is contaminated in a way that endangers life or health, citizens can directly approach the apex court under Article 32 for enforcement of their rights[3]. This marked a pivotal acknowledgment that the state has a duty to prevent and remedy water pollution so as not to deprive citizens of life and health.[4]

Throughout the 1990s and 2000s, both the Supreme Court and various High Courts reinforced this principle and expanded its scope. The Kerala High Court's decision in *Attakoya Thangal v Union of India* (1990) is often cited for articulating that the right to life "is much more than merely an animal existence." In that case, concerning excessive groundwater extraction from the Lakshadweep islands, the court famously stated that "the right to sweet water and the right to free air are attributes of the right to life, for these are the basic elements which sustain life itself"[5]. Similarly, in *F.K. Hussain v Union of India* (1990), the Kerala High Court restrained indiscriminate groundwater exploitation, emphasizing that no administrative agency can be allowed to compromise

[1] Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 – The Supreme Court held that the right to life under Art. 21 includes the right to live with human dignity, which in turn may encompass the protection of health and a clean environment.

[2] Subhash Kumar v. State of Bihar & Ors., AIR 1991 SC 420 – Supreme Court (K.N. Singh J.) held that the right to life "includes the right of enjoyment of pollution-free water and air for full enjoyment of life," and that a citizen may seek remedy under Art.32 to stop contamination of water that endangers life.

[3] Supra 2

[4] Organisation for Economic Co-operation and Development (OECD). Water Governance and Policy. Available at: https://www.oecd.org/water (Last visited: 18 September 2025).

[5] Attakoya Thangal v. Union of India, 1990 (1) KLT 580 – Kerala High Court held that excessive groundwater extraction affecting future availability violates Art.21. It stated that the right to life is more than mere animal existence, including the right to sweet water and fresh air as essential to life.

the people's fundamental right to life by destroying the water sources on which life depends[6].

The Supreme Court too progressively underscored the state's positive obligation. In *M.C. Mehta v Kamal Nath* (1997), while dealing with a case involving interference with the natural flow of a river, the Court expounded the public trust doctrine and held that the state holds water resources in trust for the public and must protect them for the people's use and enjoyment[7]. The Court affirmed that the government cannot abdicate its role as a trustee of such essential resources, aligning with the idea that ensuring access to water is a sovereign duty. By the turn of the millennium, the right to safe and sufficient water was cemented as part of the fundamental rights jurisprudence. Notably, in the context of large dams and displacement, the Supreme Court in *Narmada Bachao Andolan v Union of India* (2000) observed that "water is the basic need for the survival of human beings and is part of the right to life and human rights" and that the state must provide water sources where none are available[8]. Around the same time, in *State of Karnataka v State of Andhra Pradesh* (2000), an inter-state river water dispute, the Supreme Court reiterated that the right to water is inherent in the right to life, thus any governmental allocation of water must keep in view the fundamental right of people to have water for their survival[9].

Beyond the courtroom, India's Directive Principles of State Policy complement this rights-based approach. Article 47 of the Constitution directs the State to regard raising the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties. Though not justiciable in themselves, these principles buttress the argument that providing clean drinking water is a core governmental responsibility. Over the years, Parliament and state legislatures have enacted numerous laws concerning water supply, public health, and environmental protection, from the Water (Prevention and Control of Pollution) Act 1974 aimed at curbing water pollution, to municipal laws that provide for public water supply systems. However, it remains true that no legislation explicitly codifies a "right to water." In legal practice, therefore, the right to safe drinking water in India has been realized through the interplay of constitutional interpretation and various statutory frameworks that impose duties on authorities to provide water and prevent contamination.

On the international stage, the right to water gained formal recognition relatively recently, reinforcing India's domestic jurisprudence. The United Nations Committee on Economic, Social and Cultural Rights in General Comment No.15 (2002) asserted that the right to water is indispensable for leading a life in human dignity and is a prerequisite for the realization of other human rights. This General Comment outlined that the right to water entitles everyone to sufficient, safe, acceptable, physically accessible, and affordable water for personal and domestic uses. Subsequently, the United Nations General Assembly adopted Resolution 64/292 in July 2010, explicitly recognizing "the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights"[10]. While such resolutions are not binding law, they carry considerable moral and persuasive weight, and India voted in favor of this historic declaration. Indeed, India's Supreme Court had already arrived at a similar recognition on its own, but the UN resolution has further catalyzed discourse on governmental obligations to actualize this right. Comparatively, some countries have enshrined the right to water in their constitutions or legislation, for example, South Africa's Constitution (1996) guarantees the right to have access to sufficient water, and South African law

[6] F.K. Hussain v. Union of India, AIR 1990 Ker 321 – Kerala High Court reiterated that the right to life under Art.21 includes the right to potable water. The court restrained the government from over-exploiting groundwater in a manner that would infringe the residents' right to life.

[7] M.C. Mehta v. Kamal Nath, AIR 2000 SC 1997 – Supreme Court applied the public trust doctrine, ruling that the State is the trustee of all natural water resources. The government cannot allow use of such resources in a manner that privates interests will override public use, especially where it affects the right to life of people.

[8] Narmada Bachao Andolan v. Union of India, AIR 2000 SC 3751 – Supreme Court observed that water is a basic need and a fundamental right under Art.21. The judgment upheld the construction of a dam with rehabilitation plans, while emphasizing that providing water where there is none is part of the State's obligation to fulfill the right to life.

[9] State of Karnataka v. State of Andhra Pradesh, (2000) 9 SCC 572 – In an inter-state water dispute context, the Supreme Court acknowledged that the right to water is part of the right to life. The court's observation underscored that allocations or policies must ensure people's fundamental right to have water for survival.

[10] United Nations General Assembly Resolution 64/292, "The human right to water and sanitation" (2010) – This UNGA resolution (July 28, 2010) recognized the right to safe and clean drinking water and sanitation as a human right, calling upon states and international organizations to provide financial and technical assistance to help provide safe, clean, accessible and affordable drinking water and sanitation for all (India voted in favor).

provides for a minimum quantity of free water for basic needs[11]. These international and comparative developments provide both inspiration and cautionary tales as India charts its path to ensuring water security for its citizens.[12]

In sum, by 2025 it is well settled in Indian jurisprudence that the right to safe drinking water flows from the fundamental right to life. Courts have not hesitated to hold government agencies accountable for failing to protect water quality or to supply adequate drinking water. However, the realization of this right on the ground hinges on effective policy and infrastructure. This is where measures like rainwater harvesting and the involvement of private sector resources come into play. The following sections will explore how these strategies are being leveraged, and whether they truly strengthen the fulfillment of the right to water or present new dilemmas. The constitutional and legal backdrop outlined above demands that any approach, be it community-driven conservation or privatized delivery, must ultimately be measured by how it serves the fundamental right of people to have access to clean and sufficient water.

Rainwater Harvesting as a Means to Realize the Right to Water

Rainwater harvesting (RWH) is a time-honored practice in India, with roots in traditional water management systems that sustained communities for centuries. In essence, rainwater harvesting involves collecting and storing rain runoff for future use, or channeling it into the ground to recharge aquifers. Ancient India offers numerous examples of indigenous rainwater harvesting, from stepwells and *baolis* in arid regions, to tank systems in peninsular India, reflecting a cultural understanding that every drop of rain is precious. In modern times, RWH has re-emerged as a vital component of water security strategies, particularly in the face of depleting groundwater and erratic monsoons. Its role in conferring the right to safe drinking water lies in its potential to enhance local water availability and resilience, empowering communities to secure their own drinking water sources with minimal dependence on centralized systems.

The importance of rainwater harvesting in fulfilling the right to water can be seen through multiple lenses. First, it increases the quantity of water available for use, thereby directly supporting the component of the right that requires "sufficient" water for everyone. By capturing rain where it falls, RWH can provide households and villages with an independent supply of water for part of the year, reducing the burden on often overstretched public supply networks. For instance, rooftop rainwater collection in a rural home or urban apartment can supplement drinking water needs and reduce reliance on groundwater or piped water, especially during dry spells. On a larger scale, community-driven efforts like building check-dams, rejuvenating ponds, or creating percolation pits can significantly raise the water table and improve the yield of wells. This was exemplified in states like Rajasthan and Maharashtra, where NGOs and villagers constructed small-scale rainwater storage structures that transformed barren areas into water-secure communities. Such initiatives align with the constitutional values of self-sufficiency and environmental stewardship, reinforcing the idea that the right to water is not only a state obligation but also a participatory right wherein people engage in securing their water needs.

Second, rainwater harvesting contributes to the "safe" aspect of the right to safe drinking water by improving water quality through source protection. When rainwater is captured and stored properly (for example, in clean tanks or covered reservoirs), it can be a safe source of drinking water with minimal treatment, as it avoids contamination from surface run-off or groundwater pollutants. Moreover, replenishing groundwater through artificial recharge helps dilute concentrations of harmful substances. In areas where over-extraction had led to problems like high fluoride or arsenic content in groundwater, systematic rainwater recharge has in some cases improved potability by raising the water table and reducing the ingress of contaminants. Thus, RWH serves as a preventive measure, safeguarding water quality and public health, which is a key element in the fulfillment of the right to water.

Over the past two decades, recognizing these benefits, governments in India have increasingly incorporated rainwater harvesting into law and policy. A notable policy development was the Government of India's National Water Policy of 2012, which explicitly encouraged rainwater harvesting and conservation of

[11] Constitution of the Republic of South Africa, 1996, §27(1)(b); Water Services Act 108 of 1997 (South Africa) – South Africa's Constitution guarantees everyone the right to have access to sufficient water. Under the Water Services Act, the government implemented a Free Basic Water policy (providing each household 6 kiloliters of water per month at no charge) to fulfill this right.

[12] World Bank. Water Sector – Privatization and Public-Private Partnerships. Available at: https://www.worldbank.org/en/topic/water (Last visited: 03 September 2025).

water resources at the local level[13]. More tangibly, building regulations in many jurisdictions now mandate RWH systems. As of recent years, 33 States and Union Territories have adopted provisions requiring rainwater harvesting in new building construction (for instance, through amendments to municipal by-laws or State groundwater laws). The Model Building Bye-Laws, 2016 circulated by the Union Ministry of Urban Development recommended that all buildings above a certain plot size include a rainwater harvesting structure, and most states have implemented this recommendation in some form[14]. For example, Tamil Nadu was a pioneer, in 2003 it made rainwater harvesting compulsory for all buildings (old and new) in urban and rural areas, leading to a remarkable improvement in Chennai's groundwater levels within a few years, as widely reported. Many other states followed suit: cities like Bengaluru, Delhi, and Mumbai also amended their regulations to require rooftop rainwater harvesting in large buildings or institutional facilities. This regulatory push treats rainwater harvesting as not just an optional charity, but as a legal duty of property owners and developers, rooted in the public interest of conserving water.

Courts too have weighed in to promote rainwater harvesting as part of the state's duty to secure the right to water. In several public interest litigations during the late 1990s and early 2000s, petitioners highlighted the failure of authorities to preserve traditional water bodies and to capture rainwater. Courts responded by directing governments to take affirmative steps. For instance, the Rajasthan High Court, while hearing matters on water scarcity, pressed the state government to revive old village ponds and insisted on enforcement of rainwater harvesting in public buildings. The Madras High Court monitored Chennai's rainwater harvesting program to ensure compliance when it was first introduced. These judicial interventions stem from an understanding that sustainable water management is integral to the right to life. In *Hinch Lal Tiwari v Kamala Devi* (2001), the Supreme Court struck down the allotment of a community pond for private construction and ordered that it be restored for water harvesting and use by the community, underscoring that common water bodies are to be protected for the public good[15]. Such decisions reinforce the principle that water, including rainwater, is a communal resource that the state must guard for present and future generations.

Despite these positive frameworks, the practical implementation of rainwater harvesting faces challenges which temper its role in conferring the right to water. One issue is patchy enforcement of RWH mandates. For example, even though Delhi and Bengaluru technically require RWH structures in certain buildings, compliance has been uneven and monitoring weak, resulting in many potential catchments going unrealized. Some urban residents perceive installing RWH as burdensome due to cost or space constraints, reflecting a need for greater awareness and incentives. Another challenge is maintenance: harvesting structures and recharge pits must be cleaned and maintained, otherwise they can become ineffective or even breeding grounds for disease vectors. To truly serve the right to safe water, RWH systems need continued community engagement and government support (such as technical guidance or financial subsidies under schemes like MGNREGS or Jal Shakti Abhiyan). The government's recent campaigns, for instance, "Jal Shakti Abhiyan: Catch the Rain", attempt to address these gaps by making water harvesting a mass movement and providing resources for constructing rainwater storage and recharge facilities across districts[16]. Early results from these efforts are promising; lakhs of water conservation works have been completed under

[13] Government of India, National Water Policy (2012) – Ministry of Water Resources, Govt. of India. The Policy emphasizes conservation, equitable distribution, and highlights rainwater harvesting and revival of traditional water bodies as key measures. It calls for augmenting availability of water through direct use of rainfall.

[14] Ministry of Housing and Urban Affairs (India), Model Building Bye-Laws 2016 – The MBBL 2016 provided a framework for states to mandate rainwater harvesting in building regulations. 33 States/UTs have adopted rainwater harvesting provisions in their building bye-laws or related orders (Lok Sabha Unstarred Question No. 1445, answered on 10.02.2022, MoHUA) confirming widespread implementation of mandatory RWH in new constructions.

[15] Hinch Lal Tiwari v. Kamala Devi, AIR 2001 SC 3215 – Supreme Court of India. The Court ruled that village ponds and common water bodies cannot be allotted for private use as they are meant for the collective benefit. It ordered restoration of a pond that had been allocated for housing, underscoring that protecting such water resources is part of the State's duty to secure the people's right to water.

[16] Ministry of Jal Shakti (India), "Jal Shakti Abhiyan: Catch the Rain" Campaign (2021) – A governmental water conservation campaign launched nationwide (covering both rural and urban areas) with the slogan "Catch the rain, where it falls, when it falls." It focused on constructing rainwater harvesting structures, revitalizing traditional water bodies, and intensive afforestation. As per government reports, hundreds of thousands of water conservation works (including rainwater harvesting structures) were completed under this campaign and related schemes by 2021–22.

employment guarantee schemes, and some states have reported rises in groundwater levels attributable to these interventions.

In sum, rainwater harvesting plays a complementary and empowering role in realizing the right to safe drinking water. It decentralizes water provision to an extent, enabling individuals and communities to help fulfill their own rights in collaboration with the state. By augmenting supply, improving quality, and fostering local stewardship of water resources, RWH aligns closely with the constitutional ethos that resources vital to life must be conserved and made accessible to all. It is not a panacea, rainwater harvesting alone cannot meet the entire drinking water demand, especially in dense urban centers or during prolonged droughts, but it is a crucial piece of the puzzle. When integrated into broader water supply planning, RWH reduces the pressure on traditional sources and builds a buffer against scarcity, thereby strengthening the guarantee of continuous access to potable water. To maximize its impact, rainwater harvesting policies must continue to be backed by strong political will, public participation, and periodic oversight (perhaps by local governments or courts) to ensure that the potential of each monsoon season is not wasted. In a country where every drop of rain can matter, harnessing rainwater is both a practical necessity and a realization of the Gandhian principle of self-reliance, ultimately furthering the fundamental right to water.[17]

Privatization of Water Services: Implications for the Right to Safe Drinking Water

If rainwater harvesting represents a bottom-up, community-centric approach to securing water, privatization of water services represents, in contrast, a top-down, market-oriented strategy. "Privatization" in the context of water can take various forms, from outsourcing certain operations (like billing or meter maintenance) to private contractors, to Public-Private Partnership (PPP) models where a private company is given responsibility for the distribution of water in a city, to outright private ownership of water supply infrastructure or resources. The underlying rationale often cited for involving the private sector is to bring in efficiency, investment, and managerial expertise, especially in situations where public utilities have struggled with limited funds or bureaucratic inefficiencies. However, when dealing with a resource as essential as drinking water, privatization is highly contentious. Water is not a luxury commodity but a life necessity, and treating it as an economic good raises ethical and legal questions about equity and rights. This section examines the experience of water privatization in India (with some global context) and evaluates how it interfaces with the right to safe drinking water.

The push for private sector participation in India's water sector gained momentum in the era of economic liberalization (1990s onwards). International financial institutions and donors encouraged reforms in utilities, including commercialization and PPPs, as part of broader urban infrastructure development programs. The Government of India's urban renewal missions and smart city schemes have often included mandates or incentives for cities to corporatize their water departments or enter into contracts with private entities for water supply. For example, under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) launched in 2005, cities were urged to introduce user charges for water and consider PPP models for improving service delivery[18]. This policy shift was predicated on the belief that private investment could help upgrade aging pipelines, reduce distribution losses, and extend networks, while competition or private management could cut down inefficiency. In practice, however, results have been mixed and instructive.

One of the earliest and most cited cases of water PPP in India is the Nagpur Municipal Corporation's arrangement with a joint venture company called Orange City Water Private Ltd., which commenced in the 2010s. The private operator (a consortium including a foreign multinational) was tasked with delivering continuous (24x7) water supply to Nagpur's citizens, reduce non-revenue water, and improve billing and collection. While there were initial improvements in service in pilot areas, reports soon emerged that the model was financially straining the city. The municipal body had to subsidize the operation because the agreed tariff charged to consumers was lower than the cost the private company billed to the city for bulk water[19]. In effect,

[17] World Health Organization (WHO). Drinking-Water: Key Facts and Guidelines. Available at: https://www.who.int/health-topics/drinking-water (Last visited: 24 September 2025).

[18] Jawaharlal Nehru National Urban Renewal Mission (JnNURM), 2005-2014 – Govt. of India's urban infrastructure program. JnNURM's reform agenda for cities included improving municipal utility revenues via user charges and encouraged Public-Private Partnerships in water supply. For instance, cities had to enact double-entry accounting and levy reasonable water tariffs as conditions for receiving grants, indirectly pushing for commercialization/privatization of services.

[19] Jammu Anand, "Nagpur's Water Privatization Model" (Interview, 2016) – Jammu Anand, leader of Nagpur Municipal Corporation Employees Union, highlighted that under the Orange City Water PPP, the

the public authority bore the losses, raising questions about who truly benefited from the partnership. Civil society groups and water sector unions pointed out that, contrary to promises, privatization did not eliminate inefficiencies but sometimes merely obscured them in complex contracts, and could even introduce new problems such as lack of transparency and profiteering. Nagpur's experience became a "pilot" that the central government lauded for replication, but on closer scrutiny, many experts argue it has not conclusively delivered better outcomes for citizens' rights, the city continues to struggle with equitable access, and water tariffs have risen over time to cover costs.

Another significant attempt was the proposed privatization of Delhi's water distribution, which was floated in the early 2000s with World Bank support. The plan envisaged concession zones operated by international companies. However, it faced stiff resistance from citizen groups and was eventually shelved amid concerns that it would lead to exorbitant tariffs without necessarily improving service for the poorest. As noted by activists who obtained internal documents under the Right to Information Act, consultants had recommended steep tariff increases to make the deal profitable for private operators, which could have made basic water unaffordable for many in the city[20]. This cuts to the heart of the issue: the **r**ight to safe drinking water includes an element of affordability, if water is available but priced beyond the reach of the poor, the right is violated in substance. Unregulated privatization tends to treat water as a commodity, where access is determined by ability to pay, which directly conflicts with the principle of universal service obligation that a government must uphold for a fundamental right.

From a legal perspective, privatization does not absolve the State of its duty to fulfill fundamental rights. Even if service delivery is contracted out or commercialized, the ultimate responsibility for ensuring every person can access safe water lies with the government under Article 21. The Supreme Court of India has not yet had occasion to directly decide a case invalidating or upholding water privatization, but its broader jurisprudence suggests that any privatization scheme must be consistent with constitutional mandates. In other sectors, the Court has struck down or modified privatization decisions when they were found arbitrary or against public interest. Applying similar reasoning, if a water PPP arrangement resulted in denial of water to certain localities or excessive charges that effectively excluded the poor, it could be challenged as an unconstitutional policy. Additionally, Indian courts have recognized the public trust doctrine, as mentioned earlier, which implies that the government cannot alienate or transfer critical resources like water in a manner that jeopardizes public rights. In *M.C. Mehta v Kamal Nath*[21], though dealing with a riverbed leased for a motel, the Supreme Court held that the State is the trustee of all natural resources which are by nature meant for public use. By extension, handing control over water resources to private entities must be carefully scrutinized to ensure the trust is not breached. In some High Court rulings, judges have cautioned that privatization of water services, if undertaken, should include safeguards such as retaining regulatory control, protecting low-income consumers, and setting performance standards enforceable by law.

The international experience with water privatization offers valuable lessons that India must heed. In the late 1990s and early 2000s, many cities worldwide experimented with privatizing water utilities, often encouraged by global institutions. However, a significant number of these ventures encountered problems. There were cases of dramatic tariff hikes, failure to meet investment commitments, service cut-offs to those unable to pay, and even public health incidents due to cost-cutting on water treatment. Consequently, a wave of "re-municipalization" has been observed in the last decade: by one account, over 180 cities in 35 countries have reverted from private water management back to public control since 2000, citing dissatisfaction with private providers and a desire to secure the human right to water for all residents[22]. Notable examples include Paris (France),

city had to subsidize the private operator. By 2016, Nagpur Municipal Corporation was reportedly incurring substantial losses (around ₹180 crore annually) due to the gap between what it paid the private JV for water and the tariffs collected, raising concerns about the model's sustainability (as reported in Truthout, 5 March 2016).

[20] Arvind Kejriwal's RTI findings on Delhi Water PPP (2005) – Activist (now Delhi CM) Arvind Kejriwal obtained documents via Right to Information Act regarding the Delhi Jal Board's World Bank-assisted privatization plan (circa 2000-2005). The records showed consultants proposed a nine-fold increase in water tariffs to cover high consultancy fees and operational costs, sparking public outrage. This contributed to the plan's abandonment. (See Delhi Jal Board Privatization papers, obtained under RTI, summarized in media reports in 2005).

[21] M.C. Mehta v. Kamal Nath, AIR 2000 SC 1997

[22] Satoko Kishimoto et al., "Here to Stay: Water Remunicipalisation as a Global Trend" in Our Public Water Future (Transnational Institute, MSP and PSI Report, 2015) – This research documented 180 cases of water service "remunicipalisation" in 35 countries from 2000–2015, including major cities like Paris and Jakarta. It concluded that common problems under

which ended its private contracts and reported improved efficiency under public management, and Cochabamba (Bolivia), where a famous grassroots revolt in 2000 against a multinational's concession (due to massive rate increases) forced the cancellation of the privatization, a poignant reminder that water can ignite social unrest if people feel their basic rights are at stake. These examples indicate that water privatisation, far from being a guaranteed success, often fails to prioritize equity and long-term sustainability, leading communities to reassert public control to protect access and affordability.

On the other hand, it is important to acknowledge that private sector participation is not monolithically bad; much depends on the context and the terms of engagement. In some cases, limited privatization or PPPs under strict regulation have improved service delivery. For instance, a few Indian cities have had success with management contracts or bulk water supply arrangements that are tightly overseen by public authorities. The key is establishing a regulatory framework that binds the private player to social objectives: setting price caps or lifeline tariffs (so that a basic quantity is provided either free or at low cost), mandating universal coverage including slums and rural areas, and imposing penalties for non-performance. The concept of a "service obligation" can be written into contracts, compelling the operator to extend connections to marginalized groups rather than just focusing on profitable segments. Additionally, transparency and public participation in decision-making can ensure that privatization does not happen through backdoor deals but is subject to public scrutiny. Unfortunately, as seen in cases like the attempted Delhi privatization, the planning was often secretive and driven by external consultants without adequately consulting the public who would be affected. This runs counter to democratic governance and the idea that water governance should involve the community (especially since water use and management at the local level in India has traditionally been a community affair, guided by customs and Panchayats).

In legal scholarship and policy debates, a middle-ground concept has emerged: viewing water as a "common good" or "common heritage" where the private sector can play a role in infrastructure or efficiency improvements, but the ownership and ultimate control remain public. This is consistent with the idea of 78where local governments partner with community organizations rather than for-profit companies. Some Indian villages, for example, have formed water user associations to manage irrigation and drinking water collectively, with technical help from NGOs or government, illustrating that alternatives to corporate privatization exist. In urban areas, a few pilot projects have seen resident welfare associations managing local distribution networks effectively on a non-profit basis. These models may better align with the right to water by keeping the resource in the commons and prioritizing human need over profit.

From a human rights perspective, privatization of water poses a risk if not carefully checked: it can turn a right into a commodity. If a private company's mandate is to earn profits, there is an inherent tension when the product is water, which ideally should be accessible to everyone irrespective of their ability to pay. International human rights law now widely recognizes that states must prevent third parties (including corporations) from infringing on the human right to water. The obligation to protect requires regulatory measures. Therefore, if India chooses to involve private entities in water supply, it bears the duty to rigorously regulate them in line with the rights framework. Statutorily, this could mean enacting a Right to Water law that, inter alia, guarantees a minimum quantity of free or affordable water to all citizens, establishes independent regulators to oversee tariffs and service quality, and provides grievance redressal mechanisms for consumers. Some steps have been taken in this direction, a few states have set up Water Regulatory Authorities (for example, Maharashtra and Uttar Pradesh have such bodies) to supervise water tariffs and allocations, though their effectiveness has been variable. It is noteworthy that a private member's bill, the Right to Water Bill, was introduced in Parliament in recent years proposing to make safe, adequate water a legally enforceable right and to ban outright privatization of water resources[23]. While that bill has not become law, it reflects growing sentiment that privatization should not be pursued at the cost of universal access.

In conclusion, the role of privatization in conferring the right to safe drinking water is highly debateable. On one hand, private investment and technology could

private management (lack of investment, tariff hikes, exclusion of the poor) prompted cities to return to public control to better uphold the human right to water.

[23] The Right to Water Bill, 2016 (Draft Bill) – A private member's bill introduced in the Indian Parliament by MP Asaduddin Owaisi (Lok Sabha, 2016) aimed to establish a statutory right to safe drinking water. The draft bill proposed guaranteed provision of a basic quantity of water to every citizen free of charge, improvement of water quality standards, and expressly prohibited privatization of water supply infrastructure outright. (Note: The Bill has not been passed into law; it reflects ongoing legislative interest in recognizing the right to water.)

help build infrastructure that the government alone might struggle to finance, potentially benefiting consumers with better services. On the other hand, unless firmly moored to a rights-based approach, privatization can undermine equity and accountability. The experiences thus far suggest that privatization is not a panacea for public sector shortcomings, in fact, it may simply replace public monopolies with private monopolies, which are less transparent and harder to hold accountable by ordinary citizens. Water, being essential for life, arguably should not be left to the whims of the market. As one commentator put it, near-universal access to water in various countries has historically been achieved through strong public commitment and investment, not through privatization. Therefore, any engagement with privatization in India must be conditioned upon protecting the poorest and ensuring that the human right to water remains front and center.

Integrating Approaches and Ensuring Equitable Access

Given the analysis above, it becomes clear that neither rainwater harvesting nor privatization alone can solve India's water challenges. Instead, a holistic approach is necessary, one that integrates community-based resource management with efficient service delivery, all under the umbrella of strong public accountability. The ultimate goal is to ensure equitable access to safe drinking water for all segments of society, rural and urban, rich and poor, present and future generations. Achieving this goal requires learning from both the successes and limitations of various approaches.

Rainwater harvesting exemplifies the principle of environmental sustainability and local empowerment. It should be scaled up alongside other conservation measures. The government can support this by providing technical know-how and subsidies for installing RWH systems, especially in water-scarce and economically weaker areas. NGOs and community groups have a crucial role in mobilizing people and sharing best practices, for example, demonstrating how simple rooftop catchment and filtration systems can drastically improve a village's drinking water security. Moreover, the revival of traditional water bodies (village tanks, stepwells, etc.) through community effort, sometimes aided by court directives, not only enhances supply but also fosters community ownership of water resources. This sense of ownership is important for the long-term stewardship of water; when people see water as a shared asset rather than a government-provided commodity, they are more likely to use it judiciously and protect it from pollution. The socio-legal implication here is that the right to water also carries a responsibility on part of the citizens to conserve water, a notion resonating with Article 51A (g) of the Constitution, which enjoins every citizen to protect the natural environment. In practical terms, integrating rainwater harvesting in every new development, replenishing groundwater systematically, and maintaining local water bodies can create a decentralized network of sources that underpin the fundamental right to water. During extreme events like droughts, these local sources can be lifesavers, reducing the need for emergency measures like water tankers or long-distance water trains that India has occasionally resorted to.

At the same time, centralized infrastructure and service delivery cannot be wished away, cities especially need well-run piped water systems and treatment plants. This is where the question of management (public vs private) re-enters. A constructive path forward might be to reform public utilities by incorporating some efficiencies associated with private management, but without sacrificing public interest. For example, capacity-building programs can train municipal water utility staff in modern techniques for leak detection, water quality monitoring, and customer service. Public utilities can also learn from each other; there have been instances of successful inter-city knowledge transfer (for instance, the Chandigarh municipal water supply, which runs at a profit and provides reliable service, sharing practices with other municipalities). The government could incentivize public utilities by funding them based on performance indicators such as reduction in water loss and expansion to underserved areas, similar to how some health and education schemes reward better outcomes. Essentially, strengthening public systems from within is a safer long-term bet for realizing the right to water than handing them over to private hands, given the mixed evidence on privatization.

Where private participation is deemed necessary or beneficial, it should be tightly governed by contracts that embed rights norms. For instance, contracts should guarantee a certain minimum quantity of free or low-cost water per household per day (to cover basic needs), reflecting the concept of a "human right to water" allowance. This could be modeled after South Africa's policy of 6,000 liters of free water per household per month as a basic floor[9]. Regulators must ensure that any tariff structure is pro-poor, perhaps through cross-subsidies (where industrial and luxury consumers pay more to subsidize households). Additionally, the terms should allow the government or a public regulator to step in if the private party fails to meet service obligations, including the option to terminate the contract and take over operations if public welfare so demands. In the past, some PPP contracts have been criticized for favoring companies (with clauses like guaranteed profits or immunity from certain legal challenges). Future agreements must avoid these pitfalls and be drafted with public interest at heart, subject to periodic review and audit.

Another critical aspect of integrating approaches is community participation in governance. Whether water supply is public or private, creating avenues for people's voices to be heard can greatly improve accountability. Water users' committees at the ward or village level, for example, can provide feedback on service delivery, help resolve local disputes, and keep an eye on functionality of rainwater harvesting structures or public taps. In rural areas, *panchayats* (local elected bodies) are by law entrusted with water supply management under decentralization schemes, and many have done commendable work when adequately funded and empowered. Encouraging democratic participation in water management resonates with the idea that the right to water is a collective right, communities should have a say in decisions about their water sources. This participatory approach was endorsed in the National Water Policy and also finds support in international principles (the Dublin Statement on Water and Sustainable Development 1992 emphasized that water development and management should be based on a participatory approach, involving users, planners, and policymakers at all levels).

Finally, ensuring equitable access to safe water requires addressing social and geographic disparities. Marginalized groups, such as slum dwellers, tribal communities, and people in remote areas, often suffer the most from water scarcity or contamination. Any integrated strategy must prioritize these groups in line with the constitutional promise of equality and social justice. Special efforts like installing community water purification plants in quality-affected habitations (for instance, villages with arsenic or fluoride contamination), providing dedicated water supply schemes for tribal hamlets, and legal protections against diversion of local water for industries at the expense of villagers (an issue seen in some mining and industrial areas) are necessary. The judiciary has intervened at times to protect vulnerable communities' water rights, as in cases where industries were restrained from extracting groundwater that would affect the drinking water sources of locals. These interventions underscore that when balancing competing uses of water, drinking and domestic needs must get highest priority, a principle explicitly stated in India's draft National Water Framework Bill and policies. In practical terms, governments should enforce a hierarchy of water use that first secures drinking water for all, before allocating water to less essential uses. This is particularly relevant when private companies are involved: their water entitlements (for bottling plants, beverage factories, etc.) should be subject to reduction if surrounding populations lack basic drinking water.

To encapsulate, an integrated approach to fulfilling the right to safe drinking water in India would blend the ethos of conservation, equity, and efficiency. Rainwater harvesting and other local measures secure the resource base and foster a culture of water care; robust public services, augmented carefully by private efficiency where suitable, ensure that water is delivered to every household in a reliable manner; and a strong legal framework holds all actors accountable to the standard that every person, without discrimination, is entitled to adequate, safe, affordable water. The year 2025 finds India at a crossroads where such integration is not only desirable but imperative, with increasing water stress, the luxury of continuing business-as-usual does not exist. The constitutional recognition of the right to water demands innovative and concerted action. By combining age-old wisdom of harvesting rain with modern management techniques, and by steering any market participation with a firm hand of justice and public interest, India can move closer to the cherished goal of "Har Ghar Jal", water in every home, as a realized fundamental right.

Conclusion

Safe drinking water is a prerequisite for a healthy, dignified life, and in legal terms it is now established as an implicit fundamental right in India. The challenge that lies beyond recognition is implementation, turning the promise of this right into a reality for all. The discussion in this paper illustrates that both rainwater harvesting and privatization of water have roles to play, albeit of very different kinds, in the quest to confer and secure the right to water.

Rainwater harvesting emerges as a positive, people-centric strategy deeply aligned with sustainable development and rights fulfillment. It builds resilience at the grassroots level and exemplifies how community initiative, backed by enabling laws, can directly enhance access to water. By investing in harvesting the monsoons, India not only mitigates the effects of climate variability but also honors the principle that communities should have control over local resources. Rainwater harvesting, therefore, should be promoted not in isolation but as part of an integrated water resource management approach, complementing large-scale water supply systems. It underscores that realizing the right to water may often begin in one's own courtyard or village tank, a reminder that simple solutions can significantly contribute to addressing a fundamental need.

Privatization of water services, in contrast, is a double-edged sword. In theory, it can bring in capital and efficiency, potentially accelerating infrastructure development which in turn could help deliver on the right to water. In practice, however, it has to date shown limited success in India and has even led to public backlash internationally. Water privatization experiments reveal that without vigilant regulation and

a pro-poor orientation, they risk sidelining the very people who most need the protection of the right to water. The profit motive, if unchecked, can undermine the equity and affordability aspects of access to water. This is not to say that the private sector should be shunned altogether, but it must operate within a framework where human rights and public trust obligations hold primacy. The State cannot contract away its duty to ensure everyone has water; if it engages private partners, it must enforce that duty through them.

Ultimately, the fulfillment of the right to safe drinking water will depend on good governance, transparent, accountable, and participatory governance of water resources and services. This involves updating legal frameworks, such as potentially enacting a national law on the right to water that clarifies entitlements and responsibilities. It involves investing substantially in water infrastructure (from catchment to tap, and including wastewater treatment to protect sources), an investment that is not a mere economic activity but an investment in human capital and social justice. It also involves education and awareness, because attitudes towards water use and conservation at the individual level collectively impact the success of any policy. If citizens are aware of their rights, they can demand better services and protection of water bodies; if they are aware of their responsibilities, they can contribute to conserving and keeping water clean.

In conclusion, the role of rainwater harvesting and privatization in conferring the right to safe drinking water must be conceived within the larger pursuit of water justice. Every drop of rain saved and every policy decision about managing water should move us closer to a future where no person has to live in thirst or fear of water-borne disease. The judiciary's recognition of the right to water has set the direction, and now multi-pronged action is needed to travel the path. As India stands in 2025, facing both water scarcity in many regions and excess water (floods) in others, it is clear that smart, inclusive, and sustainable water management is not just a technical necessity but a human rights imperative. Balancing traditional wisdom with modern innovation, and public interest with any private initiative, will be key. By doing so, India can hope to fully realize the vision implicit in its Constitution and international commitments, that safe drinking water for all is not a distant dream but an attainable reality, and a right that every government and every generation must strive to uphold.

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