



## **WATER MAFIA: A BURGEONING MENACE**

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### **ABSTRACT**

Fresh air and potable water are connatural requirements of human life. Deprivation of these will make survival direful. In India, water scarcity is a prevailing crises and one of the integral parts of the crises is the depletion of ground water. Ground water acts as the largest source of fresh water to the world. The trend of Illegal encroachment of public property, water bodies and water resources and impeding the development of our great Nation has largely increased. This article will scrutinize the phenomena of 'Water Mafia'. The authors herein, elucidate on this illegal trafficking of water and the modes in which these offences are committed. This article also reflect on the prevalent laws to curb this offence and statutory rights guaranteed to the citizens of India, pertaining to the constitutional machineries followed by its implementation by the Government. This article's foundation has been laid down on the basis of ethnographic research. This article also discusses on various rights and duties enumerated in the domain of International law. Subsequently, divulging the arrival of 'Day Zero' in India.

**Keywords:** *water scarcity, water mafia, water law, Public Trust doctrine, Precautionary Principle, tanker mafia, article 300A, article 12, IPC 441, borewells,*

*Ground water, Environmental Jurisprudence.*

### **INTRODUCTION**

Mafia is a class of hierarchically structured secret organization who are under the pursuit of illegal gains. Engaging in activities such as protection racketeering, arbitrating disputes between crooks, brokering or enforcing illegal agreements and transactions. Gambling, loan sharking, drug-trafficking, prostitution and fraud are their habitual activity. When such offences pertain to illegal trading of water, those organized groups are termed as 'Water Mafia'. We narrow down our subject matter towards these groups of organized criminals who carry illegal trafficking of water as their livelihood and fostering serious threat to millions of people. In India, more than one in ten people are deprived of access to clean water which led to the rise of Water Mafia. Unauthorized extraction of ground water poses grave problems as the groundwater is extensively used and exhausted. Inconsistent laws and lack of its proper implementation paves way to increase in trend of such illegal trafficking of water. Authors herein will shed light on how Water Mafia affects the public at large and its aggravating factors.

### **DEFINITION**

'Water Mafia' is a term coined recently. But the definition is age old since it is an organization for identifying particular organized groups' trade water illegally. Thereby, the authors define water mafias as "a gloomy coalition of thugs, politicians and fewer water department employees showcasing a parallel run and private water supply network bordered by black marketeers."



### SHADES OF WATER MAFIA

Water Mafia has become a lubricative business. Illegal trafficking of water is performed in numerous ways. The two predominant modes in which Water Mafia is carried out are enlisted below:

- Unauthorized institution of borewells - Digging borewells without acquiring prior mandated permission from the state and extracting water through the constituted unauthorized borewell.
- Unlawful encroachment on water bodies - Pumping out water from ponds, lakes and other such water bodies and engage in trading it<sup>1</sup>

The mechanism opted by these two modes are analogous in nature as it involves the same mechanism when it pertains to trading. They deploy enough number of private tankers and circulate the extracted water all over the targeted city. Water tankers and tanker businesses that deliver and extract ground water through trucks and tractors at an exorbitant price have become trivial sight in most of the Indian cities.

### TRACES OF WATER MAFIA

#### In India

Appallingly, 75% of households are deprived of access to drinking water on their premise, while 85% of rural households are even divested of piper water. This increase in demand and decrease in supply of water are mitigated through these external agents by people for their survival leaving no other alternatives. The mafia works to abridge the gap between demand and supply, under the cover of darkness.

- **Delhi**

<sup>1</sup> <https://m.timesofindia.com/city/gurgaon/how-half-of-gurugrams-water-bodies-vanished-in-40-years/articleshow/64580877.cms>

The Nation's capital is experiencing an unprecedented water crisis and is estimated to arrive at 'Day Zero' by 2020. One of the main aggravating factors for depletion of ground water is the unauthorized and exhaustive usage of ground water by these organized groups of criminals. The streets of Delhi are under the predominance of Water Mafia. A queue of tankers snake through every nook and corner of the streets, more prevalent in areas such as Sangam Vihar. Men leap out and quickly heave thick pipes which are then erected hastily into the tanks. The other end of the pipe is fastened to borewells set deep into the ground and pumping out thousands of litres. The residents are highly dependent on private tankers. The operators charge nearly twenty to fifty rupees per bucket to meet their ends. To ease out the situation, the Delhi Jal Board instituted GPS trackers to all of 250 tankers to have a check on water theft and will aid the consumers to track them. Yet, due to increase in demand for water, at times DJB goes out of tankers to meet the demanded supply<sup>2</sup>.

- **Mumbai**

Mumbai is a home to many of the largest slums in the world. It is impossible to discern water mafias without having an understanding of the state. As per India's last census in 2011, appallingly 5.1 million people, almost half of the 12.5 million Mumbai populations reside in slums. Dharavi, is the largest slum in Asia. Under the cover of darkness, dozens of dwellers leap out of their shanties and clamber over railing fence, amid fist fights and verbal blows, they take turns to fill their tankers from the valve and manage to refill the same. Stealing water

<sup>2</sup> <https://www.indiatoday.in/mail-today/story/exposed-how-water-mafia-sucks-delhi-dry-illegal-water-plants-1548528-2019-06-14>



has become rampant across this coastal metropolis. And it is also menacing now as Mumbai struggles to satisfy the thirst of its ever-growing population. The demand for water has tremendously increased its rate. Mumbai's 12.5 million people is demanding minimum 4,550 million litres a day, but the city could suffice only 2,900m litres. Water is a huge business in Mumbai and so the water mafias are in the middle of it. In 2018, an audit devised the Municipal Corporation was unable to account for 27% of the 3,800 million litres of water used in Mumbai per day. It has been referred as 'non-revenue water' and the report in a way attributed it to leaks, default in meter, illegal tapping, damage in pipe lines and maintenance. While the audit does not specify on what percentage of the water was stolen<sup>3</sup>.

- **Chennai**

Illegal extraction of water had taken gigantic rate in the city's southern suburbs having Keelkattalai and Nanmangalam lakes as the cynosures of water mafias. Deploying more than 70 tankers, around 25 lakh litres of water are being stolen and sold on a daily basis. It has been witnessed that this plunder could go on till the end of June. Innumerable commercial pipes connect the Keelkattalai lake bed while some even snake towards large wells in the wasteland yonder the lake and many even end abruptly in the lake itself. This evidentially throws light on the amount of water being sourced directly from the lake. The modus operandi of water mafias are: pumping out water from large wells beside the lake bund. The pipes lead to rough and ready filling stations along the Nanmangalam

main road, easing the tankers to go multiple trips. As per their reports of water suppliers, 12,000 litre tanker goes for at least a minimum of three trips a day near the Nanmangalam and Keelkattalai lakes. Each load prices around `1000 and is expected to increase. Residents of Chennai have started to purchase 'Yellow Water'; the private tanker marks rupees of 3,500 for the so called 'Yellow Water'. And private water tankers charge rupees 4,500 for purified water. The corporation is facilitating water only for a period of five minutes per day, since there is a huge demand for water, even small sections of people are deprived of water from corporation, so they are left with no choice than to depend on Private water tankers. Icing to that even the residents are reluctant to file a complaint against the tankers since they act as their only source for water<sup>4</sup>.

- **Bangalore**

Water crises exist in several parts of Bengaluru and leaving the residents of the city no option than to surrender them to water mafia. Reports very well elucidate that this water crises has become a boon to water tanker mafias facilitating to charge exorbitant price to deliver the pilfered water. Bellandur, an area comprised of high-rise buildings and huge population ratio. Residents are trying to outbid each other to suffice their own need of water. Bellandur is home to many who work in IT sector. The cost of supplying a 6,000-litre tanker of water has hiked from rupees 800 to rupees 1400. The water prices are also likely to increase even more in the next three months. The borewells have all dried, water mafias are now auctioning the water supplied

<sup>3</sup> <https://www.thenational.ae/world/asia/mumbai-succumbs-to-a-new-underworld-the-water-mafia-1.533677>

<sup>4</sup> <https://www.newindianexpress.com/cities/chennai/2018/may/04/water-mafia-tankers-ignore-regulations-extract-groundwater-in-chennai-1810040.html>



by them to whichever group is willing to bid the highest price. There are nearly 1,000 apartment buildings that right now have no access to water. Bengaluru has faced water problems for a long time, yet water mafias increased its pace only in recent times.

### **In Pakistan**

Inspite of sufficient water resources: water flowing down the Himalayas and glaciers, the country is facing severe shortage of water.

- **Karachi**

The city is comprised of more than 15 million people and currently Karachi's water board allocates only around half of the required water to the people of Karachi. Karachi is in need of minimum 850 gallons of water per day, the water board does not facilitate more than 400 gallons approximately and this failure of Karachi's municipal authorities leads to Karachi's burgeoning Water Mafia<sup>5</sup>.

### **WATER MAFIA IS A CRIME**

Extraction of water from riverbed, ponds, lakes or through unauthorized borewells, without lease or permit constitutes an offence under Section 378 read with Section 379 of IPC, as natural resources belongs to the State and public. Here, the state derives its meaning from article 12 of Indian Constitution and it also acts as its trustee. Icing to that it is also an offence punishable under Sections 120B read with Section 34 of Indian Penal Code 1860. This empowers the police to lodge an FIR under IPC and Cr.P.C. to investigate it and file charge sheet to invoke the provisions of Section 378 and 379 of IPC in every case of theft of public

property. The Madras High Court, in the case of Konambedu Gramma Pothu Nalla v. State of Tamilnadu<sup>6</sup> held that illegal encroachment of water bodies by water mafias and illegal extraction of water are unlawful and bad under the eyes of law. The Hon'ble court allowed the writ petition filed by the petitioner under article 226 for issuance of Writ of Mandamus and directing the respondents to inspect the entire stretch of land in the Konambedu Narayanpuram Villages, in Parthipattu, Avadi Taluk, Thiruvallur District of Tamil Nadu and direct the Respondents to remove all illegal encroachments on these public bodies which include brushing lands, pathways, village and illegal water filling stations exploiting water and run illegally by illegal tanker mafias. Subsequently, the Madras High Court in the case of Vimallesh Mishra v. SDM, GNCD<sup>7</sup> passed orders to monitor and shut down those de-sealed borewells which are run by water mafias and also issued directions to the collectors of Kancheepuram and Thiruvallur districts for proper implementation of the Chennai Metropolitan Area Ground Water Regulation Act. As to maintain a register of existing well, borewells and to restrict any vehicle to transport ground water without obtaining a valid license under section 5 of CMAGW Act and to seize those vehicles indulging in illegal transportation according to section 12 and 12A of the CMAGW Act, upon the PIL filed by V. Sheela<sup>8</sup>. The Central information commission, In the case of Abdul Mabood v.

<sup>5</sup> <https://www.telegraph.co.uk/global-health/climate-and-people/tanker-mafia-using-illegal-hydrants-sell-drinking-water-black/>

<sup>6</sup>Konambedu Gramma Pothu Nalla v. State of Tamilnadu, W.P.No.18881 of 2018

<sup>7</sup> Vimallesh Mishra v. SDM, GNCD, RTI. No. 199 of 1122015

<sup>8</sup>V. Sheela v. State of Tamilnadu, WP.No.15304 of 2019



PIO<sup>9</sup>, Delhi Jal Board, found that the DJB did not impose the conditions along with the sanction and thereby leading to unrestricted extraction of ground water and illegal trade in that water by the water mafias. Water laws curb the so-called 'Water Mafia' in its initial stages. Despite few state governments have come forward to devise separate groundwater law, the states of Andhra Pradesh, Goa, Himachal Pradesh, Karnataka, Kerala, Tamil Nadu, Uttar Pradesh and West Bengal have introduced laws to regulate and conserve groundwater from being exploited by these unlawful external agents.

### **WATER LAW**

Water rights are intrinsically linked to land rights. Traditionally, water rights were derived from land rights.

#### ***Riparian Doctrine***

Riparian area is the point of interact between the land and river or a stream. Riparian water rights are a mechanism of allocation of water among Riparian owners. Riparian doctrine elucidates the water rights of an individual. The Doctrine guarantees that the water of a territorial terrain bordered belongs to the individual who possess or own the terrain. Even now, this principle marks an important evolution in water law.

#### **Position in India**

India does not have any specific law pertaining to ownership and rights over water resources. The rights are derived from several legislations and customary beliefs. The legal position on whether groundwater is a source meant for public use is perplexed. India has no law that clearly expounds groundwater ownership. Limited grounds for deriving

groundwater rights are provided through the Indian Easement Act of 1882. An 'easement' is a right that the owner or occupier of an estimated land possesses for beneficially exercising his enjoyment over the land. Instances of easements are right of way, right to light and air. Section 7(g) of the Indian Easement Act elucidates that every owner of the land has the right to "collect and dispose" of all water beneath the individual's land within his own limits, and all water present or flowing on the surface which does not pass in a precised channel. By virtue of this Act, the owner of an estimated piece of land does not possess ownership over the groundwater under the land or on the surface of the individual's land; the individual only possess the right to collect and use the water. Traditionally, it is accepted across India that a well on an extended area of land belongs to the person who owns the land, and the rest possess no legal right to extract water from the well or prohibit the landowner from exercising his right to use the water. This belief and practice is indirectly purported to various laws such as land Acts and irrigation Acts that enlist all subject matter in which the government can exercise its right. Lucid interpretations of the Land Acquisition Act of 1894 and the Transfer of Property Act of 1882 also support this position that a landowner has proprietary rights to groundwater<sup>10</sup>.

#### ***Common Law Rule***

Common law contemplates groundwater as a part and parcel of the land. The legal consequence of the common law rule is that the owner of the land acquired unlimited rights over the extraction of the ground water.

<sup>9</sup> Abdul Mabood v. PIO, Delhi Jal Board, CIC/SA/A/2016/001685

<sup>10</sup><https://www.indiawaterportal.org/sites/indiawaterportal.org/files/Legal%20Aspect%20of%20Ground%20Water.pdf>



The liability of the land owner over any damage caused to water due to exhaustive extraction of water was not legally binding. Common law principle is still an ancillary part of the groundwater laws in India. It shall remain as a part of groundwater law until the state governments make separate or distinguished groundwater laws. The applicability of common law principle on groundwater is still a heated debate<sup>11</sup>.

Entry 17 under List II of Seventh Schedule mandates that the subject matter pertaining to water supplies, irrigation, canals, drainage, embankments, and water storage and water power subject to the provisions of Entry 56 of List I lies under the ambit of State legislature. Only the State possesses the authority to deal with this subject matter as it comes under the list II of Seventh Schedule. Certain laws enacted on ground water by various states are enlisted<sup>12</sup>:

- **Bihar** - The Bihar Ground Water (Regulation and Control of Development and Management) Act, 2006 enacted and enforced on 09.01.07 by the state government of Bihar.
- **Delhi** - The Delhi Water Board Act, 1998 and The Delhi Water Board (Amendment) bill, 2002 had been placed before the assembly.
- **Goa** - The Goa Ground Water Regulation Act, 2002 has been enacted by the state legislature on 25.01.02 and enforced on 17.03.2003.
- **Himachal Pradesh** - The Himachal Pradesh Ground Water (Regulation and Control of Development and Management) Act, 2005, enforced on 28.10.05.
- **Karnataka** - The state cabinet has approved the Karnataka Ground Water (Regulation and Control of Development and Management) bill, 2007, to be enforced.
- **Kerala** - The Kerala Ground Water (Control and Regulation) Act, 1997 has been enacted.
- **Punjab** - The Punjab Ground Water (Control and Regulation) Act, 1998 was prepared on the basis of model bill and was submitted to Punjab State water resources committee. This system is failure and they suggested system of incentive is better.
- **Tamilnadu** - The Tamilnadu Ground Water (Development and Management) Act, 2003, which was repealed and currently, the Chennai Metropolitan Area Ground Water Regulation Act, 1987 is only in force.
- **West Bengal** - The West Bengal Ground Water Resources (Management, Control and Regulation) Act, 2005 came into effect on 15.09.05.
- **Andhra Pradesh** - The Andhra Pradesh water, Land and trees act, 2002, enforced on 19.04.02

**RIGHT TO WATER**

As stated before, fresh air and potable water are connatural requirements of human life. Deprivation of these will make survival direful. The Supreme Court in various adjudications has interpreted Article 21 of Indian Constitution and has taken a stand that right of access to clean drinking water is fundamental to life<sup>13</sup>. Duty lies on State to provide clean drinking water to its citizens. In various pronouncements, this view has been

<sup>11</sup> Supra

<sup>12</sup> <http://cgwb.gov.in/StateGW-Departments.html>

<sup>13</sup> Dhanajirao Jivarao Jadhav and others vs. State of Maharashtra and others, 1998(2) Mh.L.J. 462



recapitulated by the Supreme Court. In the case of Dhanajirao Jivarao Jadhav and others vs. State of Maharashtra and others<sup>14</sup>, the Hon'ble Court took a view that the right of access to clean drinking water is essentially a fundamental right and State is bound to supply potable water to its citizens. Precisely, the Supreme Court in *Re: Ramlila Maidan v. Home Secretary, Union of India & Ors*<sup>15</sup>, had a juncture to interpret Article 21 of Indian Constitution and a new dimension is given to Article 21 of Indian Constitution that an individual is entitled to sleep as comfortably and as freely as he breathes. Sleep is essential for a human being to maintain a fine balance of health necessary for its living and survival. As stated earlier, supply of drinkable water and access to it is a fundamental right of the citizens of this country and they cannot be deprived of this right guaranteed under Article 21 of the Indian Constitution. Adding to the above precedents, the Supreme Court reiterated that right to life includes right to get water in the case of *M.K. Balakrishnan and Ors. v. Union of India and Ors*<sup>16</sup>. Yet, in case of *A.P. Pollution Control Board II v. Prof. M.V. Nayudu*<sup>17</sup>, the Hon'ble Court extended a different dimension to Article 21 of Indian Constitution that right of access to clean drinking water is fundamental to life and so the duty lies on State to provide clean drinking water to its citizens. Icing to all of that the Hon'ble Supreme Court in *Hinch Lal Tiwari v. Kamala Devi*<sup>18</sup>, clearly pronounced that the material resources of the community like forests, tanks, ponds, hillock, mountain etc. are nature's bounty. They need to be

secured for a proper and healthy environment which sanctions people to enjoy a quality of life which is the essence of the guaranteed right under Article 21 of Indian Constitution.

### **STATE OBLIGATION**

It is an undisputable fact that ensuring clean water to the citizen of this great Nation is an integral part of Article 21 of the Indian Constitution<sup>19</sup>. Yet, the State is bound by the duty to provide not only clean water to the citizens but also to take necessary steps to ensure that water bodies and water resources are protected. If the Officials are inoperative and insensitive towards the illegal encroachments in public lands and water bodies, it would amount to the breach of constitutional rights of the citizens of India, who are residing in the yonder places from water bodies as the same would affect the other citizens to get sufficient water. Rivers are not merely passages that transport water; they are dynamic ecosystems that change over time in response to hydrological and biological processes and human intrusion. Therefore, all those anthropogenic activities performed directly or indirectly vandalize the river or degrade the water quality also need to be barred or regulated by the Water (Prevention and Control of Pollution) Act, which also include; flow regulation, divergence and extraction of water.

### **Public Trust Doctrine**

The Public Trust Doctrine fundamentally focuses on the principle that resources such as air, sea, waters and the forests are of great importance to people at large that it would be

<sup>14</sup> Supra

<sup>15</sup> *Re: Ramlila Maidan v. Home Secretary, Union of India & Ors.* (2012) 5 scc cp379.11 1

<sup>16</sup> *M.K. Balakrishnan and Ors. v. Union of India and Ors.* AIR 2009 SC (Supp) 1916

<sup>17</sup> *A.P. Pollution Control Board II v. Prof. M.V. Nayudu*, (2001) 2 SCC 62

<sup>18</sup> *Hinch Lal Tiwari v. Kamala Devi*, (2001) 6 SCC 496

<sup>19</sup> *Yakub v. State of Tamilnadu*, W.P.No.38625 of 2004



unjustifiable to deem them a subject of private ownership. The resources being nature's bounty, it should be made in such a way that it is freely accessible to everyone indiscriminative of their status in life. The doctrine entails the Government to protect the resources for the healthy enjoyment of general public rather than to authorize their use for private entities entitling ownership over those resources. The Supreme Court in *M.C. Mehta v. Union of India*<sup>20</sup> took a view that our Indian legal system, which is constructed on English common law, embraces the public trust doctrine as a feature of its jurisprudence. The State acts as the trustee of all natural resources, which are innately meant for public use and enjoyment. The citizens of the Nation are the beneficiary of the seashore, running waters, airs, forests and ecologically frail lands. The State is the trustee and is under a legal duty to ensure protection to the natural resources. These resources which are meant for public use cannot be transmuted into private ownership. The rivers, forests, minerals and such other resources embody a nation's natural wealth. These resources are not ought to be misused in any way and exhausted by any generation. Every generation is obliged to all succeeding generations to develop and preserve the natural resources of the country in utmost possible way. The Public Trust doctrine is an essential feature of the law of the land. The court also construed that there is no any justifiable reason to rule out the application of the public trust doctrine in the ecosystems of India. The Public Trust Doctrine elucidates the means for increasing the effectiveness of environmental laws. Thereby, under this doctrine, the state is obliged to act as a trustee under Article 48A

to protect and improve the environment and safeguard the forests and environmentalism of the country. While applying Article 21, the state is under the duty to take account of Article 48A, though it's a Directive Principle of State Policy. The state's trusteeship entitles a right to a healthy environment when it is construed under the light of Article 21 and Article 48A of Indian Constitution.

### Precautionary principle

The Supreme Court of India, in *Vellore Citizens Forum Case*<sup>21</sup>, envisaged three concepts for the precautionary principle. When "Precautionary Principle" is construed with regards to the municipal law elucidates three concepts:

- ❖ Environment measures taken by the State Government and the statutory Authorities must anticipate, avert and strike the causes of environmental deterioration.
- ❖ Where there are menaces of serious and irreversible injury due to failure of scientific mechanisms certainly should not be used as the reason for postponing, measures to prevent environmental depredation.
- ❖ The "Onus of proof" is on the developer or the actor or the industry to show that their action is environmentally benign.

The Precautionary Principle propounds that where there is a perceptible threat of serious or irreversible injury includes even extinction of species, widespread toxic pollution and

<sup>20</sup> *M.C. Mehta v. Union of India*, 1987 SCR (1) 819

<sup>21</sup> *Vellore Citizens Forum Case*, AIR 1996 SC 2715



major threats to essentially vandalize ecological processes, it shall be pertinent to place the onus of roof on the person or entity performing the activity that is potentially grave to the environment. In light of the above mentioned constitutional and statutory provisions we could witness that precautionary principle is a part of the environmental law of the country.

Violation of the Doctrine of Public Trust and Precautionary Principle by the State, on the account of inefficiency of implementation of these laws will also constitute a colourable action of the State upon breaching Article 14 and 21 of the Indian Constitution. When it is construed with regards to Water Mafia, the State has failed to enact and implement stringent laws to curb this menace. Thereby if this inaction persists, it would amount a colourable action by the State infringing the citizens constitutional rights.

### INTERNATIONAL PURVIEW

The Human Right to Water and Sanitation was conceded as a human right by the United Nations General Assembly on 28 July 2010<sup>22</sup>. The lucid definition to the human right to water was issued by the United Nations Committee on Economic, Social and Cultural Rights in General Comment No.15 drafted in 2002<sup>23</sup>. "The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses."<sup>24</sup> Adding to

that, as per the settled principles of Environmental Jurisprudence, civilization of man was simply an intrinsic part of natural system. Inhabiting and utilizing a small portion of its energy and material needs. As the population count increased eventually the culture and technology transformed, it was difficult go parallel with the framework of existing natural system. Hence, the natural system was simplified into an artificial, vibrant, vivid and highly productive system. Developed technology and new innovations provoked the humans to extract more and more from natural system. No doubt that any kind of advance plays a vital role in developing the standards of society but the same evils associated damages, many of which are environmental injuries. Balancing ecology and development was reconciled in UN Conference on the Human Environment, Stockholm<sup>25</sup> whereby it was observed that a mark has been attained in the past where we must start shaping our actions throughout the world with a more common sensical care for their environmental gloomy upshots.

The following principles laid down are relevant for our objective:-

Principle § 6: The release of toxic materials, release of heat or any such substances, in such amount or concentrations as to be over the magnitude of the environment to make them less harmed, must be forbidden in order to make sure that serious or irreversible damage is not directly

<sup>22</sup> "Resolution 64/292: The human right to water and sanitation". United Nations. August 2010. Retrieved 13 October 2018.

<sup>23</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant), 20 January 2003, E/C.12/2002/11, available at: <http://www.refworld.org/docid/4538838d11.html>

<sup>24</sup><http://www.endwaterpoverty.org/sites/endwaterpoverty.org/files/The%20Human%20Rights%20To%20Water%20And%20Sanitation%20UN%20resolution.pdf>,

<sup>25</sup> [https://www.ipcc.ch/apps/nj-lite/srex/nj-lite\\_download.php?id=6471](https://www.ipcc.ch/apps/nj-lite/srex/nj-lite_download.php?id=6471)



or indirectly inflicted upon the ecosystems and the just grapple of the citizens of those affected countries against pollution should be assisted with support.

Principle § 11: The environmental policies devised by all the States should be enhancing rather than adversely affecting the development of those developing countries, nor should restrict the growth of better living standards for the public at large, and necessary steps should be taken by the Government and the International organizations with a motive of reaching to an agreement on meeting the plausible national and international economic upshots resulting from the serious implementation of environmental measures.

Principle § 13: In the pursuit for attaining a more rational management of resources and to improvise the environment, States must take a view of an integrated and coordinated approach to devise their enhancement planning so as to make sure that these developments are compatible with the duty to secure and enhance environment for the benefit of the public at large.

Principle § 14: Wise planning constitutes as an integral tool to harmonize any conflict aroused between the necessity for development and the duty to secure and enhance the environment.

Principle § 21: States, with accordance of the Charter of the United Nations and the principles of international law, the derived sovereign right of exploiting their own resources pursuant to their own environmental policies, also possess the duty to make sure that those activities are within their jurisdiction or control wherein it does not cause injury or any harm to the

environment of other Nations or of areas across the limits of the State's territorial jurisdiction.

Principle § 22: States must unite and comply with the request to develop further the international law pertaining to liability and damages awarded for those sufferers of pollution and other environmental damage caused by various actions perform within its territorial jurisdiction.

The prominent principles of the 1992 Rio Declaration on Environment and Development<sup>26</sup> pertaining to this subject matter are enlisted below:

Principle § 3: The right to development must be satisfied in a manner so as it meets developmental and environmental necessities of present and future generations in a harmonized approach.

Principle § 4: Environment protection constitutes an integral part of the development process in order to achieve sustainable development and thereby, it cannot be left in isolation.

Principle § 6: International actions in the field of environment and development should address the interests and needs of all countries but special priority must be given to developing countries especially the least developed and those most environmentally vulnerable countries.

Principle § 8: Unsustainable structures of production and consumption must be removed and lessened by the States. It must also promote appropriate demographic plans to acquire healthy, sustainable development and high life standards for all people.

Principle § 15: In order to secure and safeguard the environment, the precautionary

<sup>26</sup> [http://www.unesco.org/education/pdf/RIO\\_E.PDF](http://www.unesco.org/education/pdf/RIO_E.PDF)



approach must be widely adopted by States having accords to their capabilities. Where there are serious threats or irreparable damage, lack of complete scientific certainty shall be prohibited from being used as a reason for delaying cost-efficient measures to prevent environmental hazards.

Principle §17: Activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority should undergo the Environmental impact assessment and it must be considered as a national instrument.

With regards to the 1992 Rio Declaration on Environment and Development, it elucidates upon the rights of the public at large to be involved in the enhancement of their economies, and the prevailing duties of human beings to protect the trivial environment. The declaration structured upon the standard ideas pertaining to the attitudes of individuals and States towards the development and environment, firstly it was recognized at the United Nations Conference on the Human Environment 1972. The Rio Declaration elucidates that interminable economic progress is guaranteed only if it acquires a nexus concerning the protection of the environment. A new global partnership involving governments, people of their nation and key sectors of society has to be established to achieve this milestone. Jointly the human society should congregate international agreements that protect and safeguard the global environment with commonsensical enhancements.

### **CONCLUSION**

Water Mafia, a burgeoning threat to whole of Nation must be put to an end. It is no surprise that 'Day Zero' has arrived in India marching

straightaway from the Cape Town. The Constitutional philosophy envisaged in Article 21, Article 48A and Article 51A (g) of Indian Constitution must be implemented. Article 48A reads as under "The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country", the framers of the Constitution clearly expressed their concern and inevitability of protection and improvement of forests, rivers, wild life and lakes for safeguarding the environment from man-made hazards. Article 51A (g) clearly illuminates the fundamental duty of every citizen of the nation "to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures". The spirit of the Constitution delegates the bounden duty to protect our natural environment to the public at large and the State as it is the trustee. The dwindling ground water levels must be mitigated by the Government through adopting precautionary approach and implementing stringent laws to curb such illegal activities of exhausting the ground water. Thereby, preserving justice, equity, good conscience, and the principle of isonomy.

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