

AS INTRODUCED IN LOK SABHA

**Bill No. 14 of 2020**

THE RIGHT TO WATER BILL, 2020

By

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A

BILL

*to provide a practical framework for the realisation of the right to water, enable participation of citizens in the management of water resources and to ensure sustainable use of ecological resources and for matters connected therewith or incidental thereto.*

WHEREAS water is essential for life and its sustainable use is critical for the survival of future generations;

AND WHEREAS article 39 of the Constitution requires the State to direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

AND WHEREAS the Hon'ble Supreme Court of India has recognised that the right to life enshrined in article 21 of the Constitution includes the right to clean drinking water;

AND WHEREAS the General Comment No. 15 of the United Nations Committee on Economic, Social and Cultural Rights has recognised the Right to Water as a part of right to an adequate standard of living under Article 11 and right to enjoyment of the highest standard of physical and mental health under Article 12 of the International Covenant on Economic, Social and Cultural Rights;

AND WHEREAS the United Nations General Assembly Resolution 53/292 has recognised the right of every human being to have access to sufficient water for personal and domestic uses which must be safe, acceptable and affordable, and physically accessible, and has declared that clean drinking water is essential to the full enjoyment of life and all other human rights;

AND WHEREAS article 14(2)(h) of the Convention on the Elimination of All Forms of Discrimination against Women requires State parties to ensure to women the right to enjoy adequate living conditions, particularly in relation to water supply;

AND WHEREAS article 28(2)(a) of the Convention on the Rights of Persons with Disabilities requires that State parties take appropriate steps to safeguard and promote the realization and non-discriminatory enjoyment of the right of persons with disabilities to social protection, including measures to ensure equal access by persons with disabilities to clean water services;

AND WHEREAS article 24(2)(c) of the United Nations Convention on the Rights of the Child recognises the right of the child to the enjoyment of the highest attainable standard of health, including the obligation of state parties to provide for adequate clean drinking water;

AND WHEREAS the Dublin Statement on Water and Sustainable Development adopted at the International Conference on Water and Environment recognises that water development and management should be based on a participatory approach involving users, planners and policy-makers at all levels; that women play a central role in the provision, management and safeguarding of water; and that water is a public good and has a social and economic value in all its competing uses;

AND WHEREAS the 2030 Agenda for Sustainable Development adopted by the United Nations General Assembly in 2015 includes achieving universal and equitable access to safe and affordable drinking water for all, and supporting and strengthening the participation of local communities in improving water and sanitation management as its goals;

AND WHEREAS article 253 of the Constitution empowers the Parliament to make any law for implementing any treaty, agreement or convention with other countries or any decision made at any international conference, association or other body;

AND WHEREAS the climate crisis requires urgent steps to protect, preserve and replenish water sources;

AND WHEREAS each year, in addition to significant economic losses equivalent to more than six per cent of India's GDP, nearly thirty-eight million Indians suffer from water-borne diseases while some six lakh children under the age of five die due to deficient water supply and sanitation;

AND WHEREAS a report of Composite Water Management Index indicates that by 2030, India's water demand is projected to be twice the available supply, implying severe water scarcity for hundreds of millions of people and an eventual six per cent loss in the country's GDP;

AND WHEREAS Babasaheb Ambedkar undertook a Satyagraha to ensure the equal right to water for all water users, regardless of caste;

AND WHEREAS it is recognised that there is significant disparity in the quantity and quality of water made available on the basis of the identity of water users;

NOW THEREFORE it is essential to provide for a participatory framework for the realization of a right to water, to ensure water quality control and remove disparities in supply of water.

BE it enacted by Parliament in the Seventy-first year of the republic of India as follows:—

## CHAPTER I

### PRELIMINARY

5 **1.** (1) This Act may be called the Right to Water Act, 2020.

(2) It extends to the whole of India.

(3) It shall come into force on such date, not being later than thirty days from the date the President gives his assent to this Act, as the Central Government may, by notification in the Official Gazette, appoint:

10 Provided that the State Governments may notify a separate geographical demarcation for the implementation of this Act and may consider the following factors in such notification, namely:

(a) that the number of water users in all demarcations is approximately uniform and not disparate;

15 (b) that the number of water users in each demarcation is such that it ensures each water users' right to participate fully in the Framework for Public Participation;

(c) that due consideration is given to the existing special arrangements under the Constitution including Schedule V and VI; and

20 (d) that due consideration is given to inaccessible geographical locations or areas that face water scarcity or areas that are found to be vulnerable to natural or artificial disasters.

**2.** In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

25 (b) "equitable access to water" means access to clean water to all persons without discrimination on the basis of any identity including gender or caste or location or religion or legal status or absence of documentation or sex or economic class and includes special provisions for vulnerable communities including women, children, senior citizens, linguistic or religious minorities, persons with disabilities, scheduled castes or scheduled tribes;

30 (c) "Framework for Public Participation" means the framework of an independent administrative process to ensure participation of all water users in relation to any matter pertaining to the supply, use, management, conservation and preservation of water and water sources;

35 (d) "localized" or "local" shall refer to the lowest level of representative Government established by or under the Constitution of India and includes the Panchayats under Part IX of the Constitution;

40 (e) "pattern or practice" shall mean any empirical finding of disparities in water supply or discrimination in water supply and includes any act of commission or omission by the State that may result in a violation of the provisions of this Act;

(f) "prescribed" means prescribed by rules made under this Act;

45 (g) "water for sustenance of human life" includes the reasonable minimum use of water for personal and domestic use, including for sanitation and hygiene, by any person or household but does not include the use of water for any commercial or industrial purpose; and

Short title,  
extent and  
commencement.

Definitions.

(h) "water security" means availability of sufficient clean water to meet the domestic demand as well as access, at the individual level, to adequate quantities of clean water.

## CHAPTER II

### RIGHTS AND DUTIES IN RELATION TO WATER

Water as a  
common  
resource.

**3. (1)** Water shall be treated as a common resource of all persons residing in India and shall not be subject to any ownership, including that of the State. 5

(2) The State shall hold water in public trust for the people as a trustee for the benefit of all persons.

(3) The use of water for the sustenance of human life shall take precedence over all other uses of water. 10

(4) Any policy or pattern or practice that is found to be inconsistent with this section shall be unenforceable and void *ab initio*:

Provided that the State, as Trustee, shall be prohibited from delegating any of its functions under this Act to any entity or organisation that is not a Public Authority within the definition of the Right to Information Act, 2005. 15

Duties of the  
Central  
Government.

**4. (1) The Central Government shall,—**

**(a) ensure that adequate financial resources and technical assistance is made available to each State and local Government to discharge their duties under this Act;**

**(b) make annual investments in research and development of technologies related to water and make such technologies available to the State and local government;** 20

**(c) on an annual basis, make publicly available all data and information pertaining to water, its management, conservation and protection;**

**(d) annually publish a Water Security Plan indicating the key threats and risks to India's water security and the steps that are required to address them;** 25

**(e)** by order published in the Official Gazette, incorporate any principles or practices that are part of international instruments that India is party to, in the management of water resources;

**(f) undertake measures to anticipate, prevent, and effectively counter droughts or floods in any part of India;** 30

**(g) sustain and protect any ecosystems that are dependent on water;**

**(h) establish an independent expert panel to recommend minimum national standards on water quality that shall be binding across the territory of India; and**

**(i) establish an independent expert panel to recommend minimum national water footprint standards for every product or goods or service.** 35

*Explanation.*—For the purpose of this section "independent expert panel" means a panel of two or more persons who have relevant expertise in any scientific or academic field pertaining to water quality or water use.

Duties of the  
State  
Government.

**5.** The State Government shall, in relation to water, ensure—

**(a)** protection, preservation and conservation of all water sources in a manner that allows for use by future generations; 40

**(b)** the notification of Framework for Public Participation within thirty days coming into force of this Act;

**(c)** that the management and supply of water is localized subject to considerations of equitable access to water; 45

(d) adequate protection of water sources, conservation of water and rational water use;

(e) implementation of a differential pricing policy for water use;

5 (f) non-discrimination in access to water, including its supply, maintenance and quality;

(g) that it does not participate in or permit any pattern or practice;

(h) that in relation to infrastructure or irrigation projects, it shall execute the project in a manner that causes the least ecological harm and is consistent with the principles of sustainable development;

10 (i) that practical steps are taken to incentivize sustainable land use and agricultural practices;

(j) maximization of wastewater treatment and its productive use;

(k) conservation and protection of groundwater;

15 (l) provision of intellectual, administrative and implementational leadership in relation to water management and conservation;

(m) the undertaking of mass awareness campaigns and capacity building programs;

(n) periodic training and upskilling of all personnel involved in the implementation of this Act;

20 (o) the periodic publication of guidelines and field manuals for water management under the Framework for Public Participation, documenting best practices, information access mechanisms, dedicated helplines; and

(p) the adequate provision of funds to water supply administrators to rehabilitate old supply systems to prevent loss to exchequer due to non-revenue water.

25 *Explanation.*—For the purpose of this section,—

(a) "conservation and protection of groundwater" means practices to prevent irrational and discriminatory usage of groundwater, its recharging by methods of water and rainwater harvesting, and protecting any such underground resource from pollutants;

30 (b) "Principles of sustainable development" means the principles of sustainable development as defined by the World Commission on Environment and Development or any other international convention or instrument for the time being in force; and

35 (c) "maximization of wastewater treatment and its productive use" includes the practice of drainage and collection of all wastewater in a scientific and systematic manner, its treatment for removal of all types of effluents, and provision for reuse of such treated water.

**6. (1)** Every water user shall have the right to—

(a) free and clean water for sustenance of human life;

40 (b) equitable and non-discriminatory access to water, regardless of age or gender or religion or caste or tribal identity or place of residence or ability to pay or legal status;

(c) meaningful and comprehensive participation under the Framework for Public Participation;

45 (d) access complete information in relation to the supply, management, control and use of water; and

(e) the reasonable, non-industrial use of water for livelihood, when such livelihood refers to self-employment, single-worker or domestic enterprises.

Rights of  
water users.

(2) For the purpose of sub-section (1), the appropriate Government shall immediately take steps to remedy,—

(a) the burden faced by women in relation to water scarcity and the historic neglect of their health, hygiene and sanitation needs in public policy;

(b) the historical and continuing denial of access to water based on untouchability and caste; 5

(c) the discriminatory patterns or practices that prioritize access to water for industrial or commercial purposes over water for sustenance of human life;

(d) the discriminatory patterns or practices that reinforce disparities in quality and quantity of water supplied on the basis of geographical location or ability to pay; and 10

(e) the widespread privatisation of not only water sources but supply, management and control of water.

*Explanation.*—For the purpose of this section "privatisation" means vesting of effective control or management of water or water sources to any entity that is not a public authority. 15

Rights of  
Children and  
Future  
Generations.

7. It shall be the responsibility of the appropriate Government to enforce the rights of children and future generations in relation to water, including—

(a) the right to hygiene and sanitation, of which water is an essential feature;

(b) the right to clean, free water for human sustenance; 20

(c) the right to replenished, conserved and protected water sources; and

(d) the right to periodically improving standards of water quality.

Right to water  
security.

8. Each person shall have the right to water security including right—

(a) to know about the availability of water and presence of water sources;

(b) to know about the estimated demand of water at the localized level; 25

(c) against practices that are likely to induce flooding or drought conditions; and

(d) water for human sustenance even in situations of flooding or drought.

### CHAPTER III

#### IMPLEMENTATION AND ENFORCEMENT OF RIGHT TO WATER

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Framework  
for Public  
Participation.

9. (1) Each State Government shall, taking into consideration the State's specific circumstances, develop and notify a Framework for Public Participation to establish,—

(a) at the local level, an independent and permanent administrative process ensuring the participation of local water users in matters relating to the conservation or preservation or management of water; 35

(b) at the State level, an independent and permanent administrative process that provides water users with the right to,—

(i) seek information on any matter pertaining to the management of water in the State;

(ii) seek enforcement of any right in relation to water, that is enumerated in this Act or any law for the time being in force; and 40

(iii) seek enforcement of any duty that the State Government has not discharged.

(2) The Framework for Public Participation notified under sub-section (1) shall adhere to the following minimum standards, namely:—

(a) principles of non-arbitrariness and non-discrimination;

5 (b) where the public participation is at the localized level, different processes may be adopted for different types of habitation (metropolitan or urban or rural or tribal) for the purposes of enabling better participation;

(c) the processes notified are accessible and do not impose conditions, including the collection of fees, that may prevent full participation by all persons;

10 (d) inclusion of the right of any section of water users to recommend water works or raise an issue or call for a meeting or seek information from any public authority;

(e) all processes are independent of administrative or monetary control of the State Government and shall be implemented only by persons with requisite specialisation and contribution in the field of water conservation and protection;

15 (f) special processes are established to ensure participation of sectoral stakeholders including small business, environmental groups, research institutions, agriculturists and those involved in the areas of public health and environment;

20 (g) special processes are established to ensure the full and meaningful participation of historically marginalized groups, including women, scheduled castes and scheduled tribes, linguistic or religious minorities, persons with disabilities and elderly;

25 (h) including of monthly public reporting of data pertaining to sectoral and geographical water consumption patterns, the expenditure on works undertaken in relation to water and specific actions undertaken by the State Government to discharge its duties under the Act; and

(i) enlisting of practical steps being taken to realize equitable and universal access to water, including public consultations on decisions pertaining to pricing and supply of water.

30 (3) In addition to the standards enumerated under sub-section (2), the Framework for Public Participation shall include,—

35 (a) an independent and permanent mechanism, at the local level, for hearing and adjudicating complaints relating to violation of any rights or non-fulfilment of obligations or duties imposed under this Act, except those provided under clause (b) of sub-section (1) of section 9 and for making remedial orders as necessary for the enforcement of the provisions of the Act.

40 (b) an independent and permanent mechanism, at the State level, for hearing and adjudicating complaints relating to violation of any rights or non-fulfilment of obligations provided under clause (b) of sub-section (1) of section 9, for hearing and adjudicating appeals arising out of orders passed by the mechanism at local level established under clause (a) of sub-section (3) of section 9, and for making remedial orders as necessary for the enforcement of the provisions of the Act.

5 of 1908. (4) The mechanism provided under clause (a) and (b) of sub-section (3) above shall grant to the adjudicating authority, the same powers as are vested in a civil court, under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters namely:—

45 (i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of documents;

(iii) receiving evidence on affidavits;

(iv) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 requisitioning any public record or document or a copy of such record or document from any office; 1 of 1872.

(v) issuing commissions for the examination of witnesses or documents;

(vi) dismissing a representation for default or deciding it *ex-parte*; 5

(vii) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and

(viii) any other matter which may be prescribed.

(5) Every proceeding under mechanism provided under clause (a) and (b) of sub-section (3) shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, 1860 and shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973, and any order made under the mechanism may be enforced in the same manner as if it were a decree made by a court in a suit pending therein. 10 45 of 1860. 2 of 1974.

(6) The mechanism provided in compliance with sub-section (3) shall,— 15

(a) provide such number of judicial and technical members as deemed necessary, where a person shall be qualified for appointment as a technical member only if he has special knowledge and experience in water governance, environmental governance or administration, social service, or such other areas of expertise pertaining to water and environment; 20

(b) provide the procedure for filing of complaints and appeals, conduct of proceedings, and time-limit for disposal, which shall not be any later than three months from the date of filing of the complaint.

Differential Pricing and Principles of Regulation.

**10.** (1) The appropriate Government shall ensure that any pricing or regulation of water use in the territory of India are in consonance with the right to free, clean water for sustenance of human life to all users. 25

(2) The pricing of water for users shall adhere to the following principles, namely:—

(a) water for sustenance of human life shall be available to all persons regardless of their ability to pay;

(b) pricing for water consumed for industrial or commercial purposes shall not be less than the life-cycle cost of the quantity of water consumed: 30

Provided that where there is reason to believe that water consumption for any industrial or commercial purpose is being carried out in an unsustainable manner the pricing shall be no less than twice the lifecycle cost of the water consumed;

(c) pricing of water supply shall incentivize conservation and reuse of water over unsustainable industrial and commercial purposes; and 35

(d) pricing and incentives for agriculture and individual livelihoods may incorporate such subsidies as may be necessary to shift towards efficient and sustainable water use practices.

(3) The pricing policy for water use shall ensure incentives to water users in order to reduce their overall water consumption. 40

(4) In relation to supply, water for human sustenance shall take precedence over all other uses:

Provided that a minimum notified volume of water shall be guaranteed to all households for free: 45

Provided further that, in relation to domestic use, progressive pricing shall be implemented, wherein water prices shall progressively increase with every increase in consumption above the notified volume of water:



Provided also that food security and sustainable livelihood generation shall take precedence over all uses other than water for human sustenance.

*Explanation.*—For the purpose of this section,—

5 (a) "individual livelihoods" shall mean activities carried out by individual persons on a self-employment basis;

(b) "notified volume of water" shall mean the minimum volume of water necessary to meet the needs for sustenance of human life notified by the State Government to be guaranteed to all households or persons for consumption free of cost; and

10 (c) "unsustainable" shall mean water consumption in a manner so as to accelerate the depletion of water resources, or their pollution in any manner, jeopardising the right of individuals and communities to access clean and safe water;

15 **11. (1) The appropriate Government shall establish support network, comprising of empanelled experts, research centres and non-Governmental Organisations, who may be consulted by any section of water users to obtain any information or technical assistance on issues such as equitable distribution, impact of water quality on different uses and users, suitable infrastructure for water supply, sustainable water use practices or such other matters.**

Support  
Networks.

20 (2) Entities and individuals in the supports network may conduct capacity building programs focussed on water resource management, providing training in operation and maintenance responsibility to the community.

#### CHAPTER IV

##### NATIONAL WATER DISPUTES AUTHORITY

25 **12. (1) The Central Government shall, by notification in the Official Gazette, establish a National Water Disputes Authority (hereinafter in this Chapter referred to be as the National Authority) or, if it deems necessary, any number of benches of the National Water Disputes Authority located in different parts of the territory of India for carrying out the purposes of this Act.**

Establishment  
of National  
Water  
Disputes  
Authority.

30 (2) **The National Authority shall consists of a Chairperson and such number of judicial and technical members, as deemed necessary for carrying out the purposes of this Act.**

(3) The Chairperson and members of the National Authority shall be appointed by the Central Government only after the concurrence of—

35 (a) two-thirds of all members of the Parliamentary Standing Committee on Science and Technology, Environment, Forest and Climate Change; and

(b) the Chief Justice of India.

(4) The eligibility criteria of the members and Chairpersons of the National Authority shall be as determined by the Parliamentary Standing Committee on Science and Technology, Environment, Forest and Climate Change.

40 (5) The salary, allowances and other terms and conditions of service including pension, gratuity and other retirement benefits of the Chairperson and members of the National Authority shall be such as may be prescribed:

Provided, the salary, allowances and other terms and conditions of service of the Chairperson or other members of the National Authority shall not be less than that of a member of the Election Commission of India:

45 Provided further that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or other members of the National Authority shall be varied to their disadvantage after appointment.

Powers and functions of the National Water Disputes Authority.

**13. (1)** The National Authority shall exercise and discharge such powers and functions as are, or may be, conferred on it by or under this Act or any other law for the time being in force.

(2) Notwithstanding the generality of the provision contained in sub-section (1),—

(a) every appeal against decisions taken by the State-level administrative mechanism, under the Framework for Public Participation, shall lie with the National Authority;

(b) every dispute arising between Central Government and one or more State Governments, and those arising between State Governments, shall be heard by the National Authority.

(3) The National Authority shall have the power to make such remedial orders as necessary for the enforcement of the provisions of this Act.

(4) The general superintendence, direction and management of the affairs of the National Authority shall vest in the Chairperson who shall be assisted by the members and may exercise all such powers and do all such acts and things which may be exercised or done by the Chairperson autonomously without being subjected to directions by any other authority under this Act.

(5) The Central Government shall, by rules, provide for the procedure for filing of appeals, conduct of proceedings, and time limit for resolution of disputes and disposal of appeals in such manner as may be prescribed.

Tenure of office of Chairperson and other Members.

**14.** The Chairperson and every other member of the National Authority shall hold office for a term of five years from the date that they enter office:

Provided that no person shall hold office as the Chairperson after attaining the age of sixty years:

Provided further that no person shall hold office as member after attaining the age of sixty years.

Filling up of vacancies.

**15.** If, for reason other than temporary absence, any vacancy occurs in the office of the Chairperson or any other member of the National Authority, then the Central Government may fill the vacancy in accordance with the provisions of this Act

Resignation and removal.

**16. (1)** The Chairperson or any other member of the National Authority may, by notice in writing addressed to the President of India, resign from his office.

(2) The Chairperson or any other member of the National Authority shall not be removed from his office except by a finding of proved misbehaviour or incapacity after an inquiry commissioned by the Parliamentary Standing Committee on Environment & Forests, in which the Chairperson or any other member concerned has been informed of the charges against them and has been given a reasonable opportunity of being heard in respect of these charges.

(3) The Parliamentary Standing Committee on Science and Technology, Environment, Forest and Climate Change, may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the Chairperson or any other member.

Staff of the National Water Disputes Authority.

**17. (1) The Central Government shall provide the National Authority with such officers and employees as it may think fit.**

(2) The officers and employees of the National Authority shall discharge their functions under general superintendence of the Chairperson.

**(3) The salaries and allowances and other conditions of service of the officers and employees of the National Authority shall be such as may be prescribed.**

5 of 1908. **18.** (1) The National Authority shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and, subject to the other provisions of this Act, and of any rules, the National Authority shall have powers to regulate their own procedure including the places at which they shall have their sittings.

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(2) The National Authority shall have, for the purposes of discharging their functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

5 of 1908.

10 (a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence or affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) reviewing its decisions;

15 (f) dismissing an application for default or deciding it *ex parte*;

(g) setting aside any order of dismissal of any application for default or any order passed by it *ex parte*; and

(h) any other matter which may be prescribed.

20 (3) Every proceeding before the National Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, and the National Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.  
2 of 1974.

National Water Disputes Authority to have the powers of the Civil Court.

CHAPTER V

MISCELLANEOUS

25 **19.** The Chairperson, members and other officers of the National Water Disputes Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

**20.** No suit, prosecution or other legal proceedings shall lie against Central Government or the State Government, or any officer of the Central Government or the State Government, the Chairperson, Members and other officers of the National Water Disputes Authority acting under this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

**21.** No court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the National Water Disputes Authority is empowered by or under this Act to determine.

**22.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of such law:

40 Provided that the State Legislature may make such laws as may be necessary to implement the provisions of this Act or the supplement the enforcement of the Act.

**23.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary, for removing the difficulty:

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Chairperson, Members, officers of National Water Disputes Authority to be public servants.

Protection of action taken in good faith.

Court not to have jurisdiction.

Act to have overriding effect.

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Power to  
make rules.

**24.** (1) The appropriate Government may, by notification, and subject to the condition of previous publication, and consistent with this Act make rules for carrying out the provisions of this Act. 5

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 10 15

(3) Every rule or Framework for Public Participation made by the State Government under this Act shall, as soon as may be after it is made, be laid before each House of the State Legislature where there are two Houses, and where there is one House of the State Legislature, before that House. 20

## STATEMENT OF OBJECTS AND REASONS

Water is essential for life. Clean drinking water is a limited natural resource and its use in a sustainable manner is critical for the future generations to survive. However, there is significant disparity in the quantity and quality of water made available on the basis of the identity of water users.

Each year, in addition to significant economic losses equivalent to more than six per cent of India's GDP, nearly thirty-eight million Indians suffer from water-borne diseases while some six lakhs children under the age of five die due to deficient water supply and sanitation. A report of Composite Water Management Index indicates that by the year 2030, India's water demand is projected to be twice the available supply, implying severe water scarcity for hundreds of millions of people and an eventual six per cent loss in the country's GDP. Hence, there is a dire need to take urgent steps to protect, preserve and replenish water sources in the country.

The Hon'ble Supreme Court of India, in an iota of cases, has recognised that the right to clean drinking water is a component of the Right to Life enshrined in article 21 of the Constitution. Further, article 39 of the Constitution provides that the State shall direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common goal.

The United Nations Committee on Economic, Social and Cultural Rights, in its General Comment No. 15, has recognised the Right to Water as a part of right to an adequate standard of living under Article 11 and right to enjoyment of the highest standard of physical and mental health under Article 12 of the International Covenant on Economic, Social and Cultural Rights. Similarly, the United Nations Convention on the Rights of the Child recognises the right of the child to the enjoyment of the highest attainable standard of health, including the obligation of State parties to provide for adequate clean drinking water.

The United Nations General Assembly Resolution 64/292 has recognised the right of every human being to have access to sufficient water for personal and domestic uses which must be safe, acceptable and affordable, and physically accessible, and has declared that clean drinking water is essential to the full enjoyment of life and all other human rights.

It is also notable that article 14(2)(h) of the Convention on the Elimination of All Forms of Discrimination against women requires State parties to ensure to women the right to enjoy adequate living conditions, particularly in relation to, *inter alia*, water supply. In a similar vein, Article 28(2)(a) of the Convention on the Rights of Persons with Disabilities requires that State parties take appropriate steps to safeguard and promote the realization and enjoyment, without discrimination, of the right of persons with disabilities to social protection, including measures to ensure equal access by persons with disabilities to clean water services.

Further, the Dublin Statement on Water and Sustainable Development adopted at the International Conference on Water and the Environment recognises that water development and management should be based on a participatory approach involving users, planners and policy-makers at all levels; that women play a central role in the provision, management and safeguarding of water; and that water is a public good and has a social and economic value in all its competing uses. India is obligated under the 2030 Agenda for Sustainable Development, adopted by the United Nations General Assembly in 2015, to achieve universal and equitable access to safe and affordable drinking water for all, and supporting and strengthening the participation of local communities in improving water and sanitation management as its goals.

Article 253 of the Constitution of India empowers the Parliament to make any law for implementing any treaty, agreement or convention with other countries or any decision made at any international conference, association or other body.

In order to address the concerns highlighted in above paragraphs and in pursuance of the obligations under the Constitution and the international conventions and other instruments, this Bill provides for a practical framework for the realization of a Right to Water, to ensure water quality controls and remove disparities in supply of water. It makes a paradigm shift in addressing the problem of water security from the current welfare approach to a right based approach. It enables participation of citizens in the management of water resources and to ensure sustainable use of ecological resources.

The Bill, therefore, seeks to—

(a) declare water as a common resource of persons residing in India, not subject to any ownership, including that of the State, and gives precedence to the use of water for the sustenance of human life over all other uses;

(b) empowering State to hold water in public trust for the people to protect water as a trustee for the benefit of all persons;

(c) impose obligation on the Central Government to, *inter alia*, ensure availability of adequate financial resources and technical assistance to local governments; make annual investments in research and development of technologies related to water; publish all data and information pertaining to water, its management, conservation and protection; publish a Water Security Plan indicating the key threats and risks to India's water security and the steps that are required to address them; undertake measures to anticipate, effectively counter and prevent droughts or floods; sustain and protect any ecosystems that are dependent on water; establish an independent expert panel to notify minimum national standards on water quality and minimum national water footprint standards for every product or good or service;

(d) impose obligation on the State Government to, *inter alia*, ensure localized management and supply of water subject to considerations of equitable access; ensure protection of water sources, conservation of water and rational water use; implement a differential pricing policy for water use; prevent discrimination in access to water; incentivize sustainable land use and agricultural practices; maximize wastewater treatment and its productive use; provide intellectual, administrative and implementational leadership in relation to water management and conservation; undertake mass awareness campaigns and capacity building programmes; publish guidelines and field manuals for water management documenting best practices, information access mechanisms, and concerned helplines; and to ensure adequate provision of funds to water supply administrators to rehabilitate old supply systems;

(e) recognise the right of water users, including the right to water security, right to free and clean water, right to equitable and non-discriminatory access to water, right to meaningful and comprehensive participation, right to access information in relation to the supply, management, control and use of water, and the right to reasonable, non-industrial use of water for livelihood;

(f) require Central and State Governments to remedy the burden faced by women in relation to water scarcity and the historic neglect of their health, hygiene and sanitation needs; denial of access to water based on untouchability and caste; discriminatory patterns or practices that prioritize access to water for industrial or commercial purposes over water for sustenance of human life and that reinforce disparities on the basis of geographical location or ability to pay; and privatisation of supply management and control of water;

(g) recognise the rights of children and future generations, including the right to hygiene and sanitation; the right to clean, free water for human sustenance; the right to replenished, conserved and protected water sources; and the right to periodically improving standards of water quality;

(h) enable meaningful participation of public by requiring States to notify a Framework for Public Participation adhering to certain enumerated minimum standards, comprising of an administrative process at the local level for participation of water users in conservation or preservation or management of water, and an administrative process at the State level providing the right to seek information, seek enforcement of any right in relation to water or any duty by the State Government;

(i) make the implementation of pricing or regulation of water use subject to conditions that the government shall ensure, *inter alia*, that free and clean water for sustenance of human life is available to all persons regardless of their ability to pay, higher pricing for water consumed for industrial or commercial purposes, incentivize conservation and reuse of water over unsustainable industrial and commercial purposes, incentivize reduction of overall water consumption;

(j) provide for establishment of support networks by the State Government, comprising of empanelled experts, research centres, non-governmental organisations, etc., for consultation by water users to obtain information or technical assistance on issues such as equitable distribution, impact of water quality, suitable infrastructure for water supply and sustainable water use practices; and

(k) provide for a mechanism to address disputes in relation to the Bill through Regional Water Disputes Authority and States Water Disputes Authority, which are bound to dispose applications, petitions and appeals in an expeditious manner.

The Bill seeks to achieve the above objectives.

Hence this Bill.

NEW DELHI;  
November 5, 2019.

ASADUDDIN OWAI SI

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides the Central Government to provide adequate financial resources and technical assistance to each State and local Government to discharge their duties under this Act. It also provides for the Central Government to make annual investments in research and development of technologies related to water and makes such technologies available to the State and local government, make publicly available all data and information pertaining to water, its management, conservation and protection, publish a Water Security Plan indicating the key threats and risks to India's water security and the steps that are required to address them, undertake measures to anticipate, prevent, and effectively counter droughts or floods in any part of India, establish an independent expert panel to recommend minimum national standards on water quality that shall be binding across the territory of India and establish an independent expert panel to recommend minimum national water footprint standards for every product or goods or service. Clause 11 provides for the appropriate Government to establish support networks, comprising of empanelled experts, research centres and non-Governmental Organisation, who may be consulted by any section of water users to obtain any information or technical assistance on issues such as equitable distribution, impact of water quality on different uses and users, suitable infrastructure for water supply, sustainable water use practices or such other matters. Clause 12 provides for the establishment of a National Water Disputes Authority consisting of a Chairperson and such other judicial and technical members to exercise powers of adjudication conferred on them under the Act. Clause 17 provides for the appointment of officers and employees to the National Water Disputes Authority. The Bill, therefore, if enacted, would involve expenditure from the consolidated Fund of India. It is estimated that recurring expenditure of about rupees two thousand crore per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one thousand crore is also likely to be incurred.



#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 24 of the Bill empowers the appropriate Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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to provide a practical framework for the realisation of the right to water, enable participation of citizens in the management of water resources and to ensure sustainable use of ecological resources and for matters connected therewith or incidental thereto.

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*(Shri Asaduddin Owaisi, M.P.)*