PRIVATIZATION OF WATER
AND
ITS IMPACT ON THE RIGHT TO WATER IN INDIA

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ABSTRACT

The human right to water is fundamental for life and health. Sufficient and safe water is a precondition for the realization of all human rights. The Committee on Economic Social Cultural Rights in its different General Comments has held that the right to water is one of the fundamental rights needed for the realization of all other rights guaranteed in the International Covenant on Economic Social Cultural Rights. The right to water has also been explicitly recognized in the General Comment No. 15 adopted 26 November 2002 by the Committee.

India under its new economic policy, influenced by the policies of the international financial institutions is encouraging the participation of the private sector in the management of water resources. Such a policy change has been institutionalized through the National Water Policy 2002. However private sector participation in the management of this basic natural resource is not without dangers. Documented cases have shown that such participation has a negative impact on the rights of the vulnerable and marginalized groups.

The present thesis first explores the normative framework of the human right to water. It then looks into three existing case studies of private sector participation in the management of water resources and seeks to understand the impact of such participation on the right to water in India. Lastly it analyzes whether the National Water Policy 2002 in its objective of promoting economic development and participation in the efficient management of water resources provides for sufficient safeguards to prevent such violations from occurring in the future.

The lacunae in the National Water Policy 2002 shows that the Indian State has failed to live up to its obligations as enshrined in the Constitution and ICESCR. This failure of the National Water Policy to provide for adequate safeguards and guidelines for regulation of private sector participation is an act of omission on part of the State and contravention of its obligations under the right to water. Whatever be the pressure from the Bretten Woods organizations, the Indian State has to put adequate policies and infrastructure in place and lay down a common minimum standard, which has to be followed by the private sector while engaging in management of water resources to ensure that the basic rights to water of all individuals are guaranteed so that they are able to live a life of human dignity.

KEY WORDS: PRIVATIZATION / RIGHT TO WATER / RIGHT TO LIVELIHOOD / DEVELOPMENT / INDIAN WATER POLICY

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