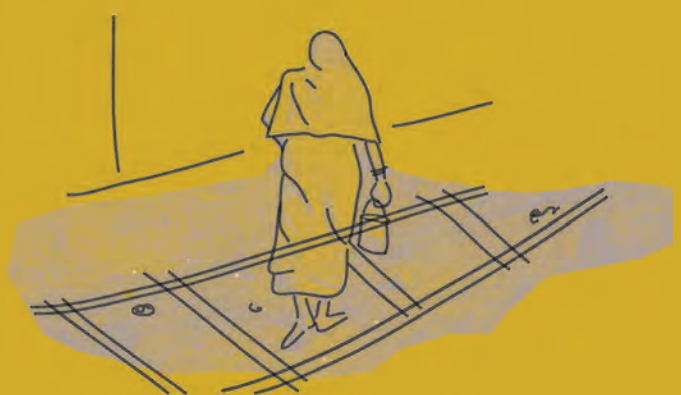
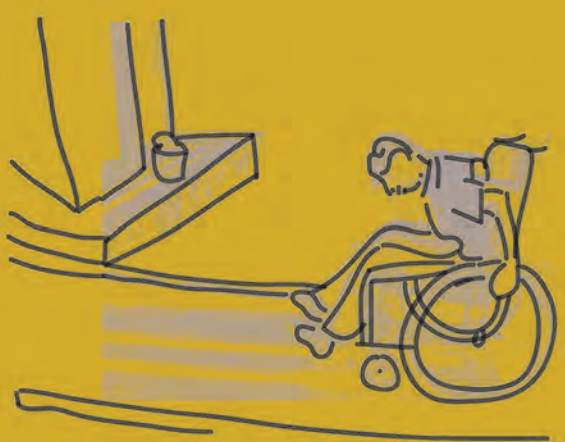
# RIGHT TO SANITATION IN INDIA

## Nature, Scope and Voices from the Margins

**Edited by**
K. J. Joy and Sarita Bhagat





Forum for Policy Dialogue on Water Conflicts in India

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FORUM FOR POLICY DIALOGUE ON WATER CONFLICTS IN INDIA

Forum for Policy Dialogue on Water Conflicts in India
December 2016

# Right to Sanitation in India: Nature, Scope and Voices from the Margins

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## Contents

# Foreword and Acknowledgement

This book is an attempt to articulate what can be the nature and content of right to sanitation in India that goes beyond the construction of toilets and an 'open defecation free Bharat'. It also attempts to capture the voices of the marginalized social sections like women, Dalits, Adivasis, homeless and people with special needs. We think it is important to take into account the specific contexts and needs of these marginalized social sections while articulating the nature and content of sanitation. Sanitation in India is narrowly understood and the schemes and policies of the government fail to take into account finer nuances as they often do not engage with the specific contexts, viewpoints, needs and aspirations of these marginalized sections of the society. Although water has been the main focus of work for the Forum for Policy Dialogue on Water Conflicts in India (Forum to be brief), in the current phase Forum has made an attempt to explore the issues in the sanitation sector too. It collaborated with WaterAid India as a knowledge partner to understand the different dimensions of sanitation and also tried to articulate the nature and content of right to sanitation in a participatory and collaborative manner. The Forum, in collaboration with WaterAid and local partners, organised nine state and regional level consultative workshops in different parts of the country over a three year period. Forum was also part of the nascent initiative, the right to sanitation campaign in India. These consultative workshops and the meetings of the campaign have greatly contributed in developing a comprehensive as well as nuanced understanding of right to sanitation.

The first chapter, 'Right to Sanitation in India: Its Nature and Scope', by Sujith Koonan articulates the content of right to sanitation in India. While doing so he engages with the developments both in India and in the international arena. The chapter also details out the legal and institutional requirements for making sanitation a constitutionally guaranteed right or an enforceable right. Though the chapter engages with most of the important comments and suggestions that came up during the consultative workshops and meetings, it is also true that it has not been able to incorporate the whole range of comments and suggestions mainly because of the limits of the structure and length of the chapter. The important suggestions that came up in these workshops are given as an Annexure at the end of the booklet to enable the readers to get a full picture of the range of comments and suggestions received through these workshops.

Chapters 2 to 6 are the voices from the margins. They are brief papers that capture the specific contexts and articulations of the various marginalized social sections. They include: Right to Sanitation: A Gender Perspective by Aanchal Kapur (Chapter 2); Dalits and Right to Sanitation by NACDOR and Daniel Edwin (Chapter 3); Adivasis and Right to Sanitation by Samar Bosu Mullick (Chapter 4); Sanitation Rights and Needs of Persons with Disabilities by Anjlee Agarwal (Chapter 5) and City Makers and WASH, Towards a Caring City by Indu Prakash Singh and Anil Kumar (Chapter 6). All these brief papers were published by the Forum earlier as part of the Right to Sanitation Campaign in India.

'Sanitation' as defined by the international agencies, emphasizes on hygiene and good health for a dignified life. The Right to Sanitation Campaign in India (mentioned above) 'sees sanitation as a process of the regeneration of the environment by disposing and managing human waste of all types in a way that makes it fit for human habitation. Therefore, the establishment of right to sanitation in India must necessarily include a focus on the following elements:

i) Ensuring that no human being is manually involved in cleaning human excreta, which would specifically include the strict enforcement of the Manual Scavenging Act, 2013,
ii) Ensuring health and environmental safety;
iii) Ensuring appropriate infrastructure and resources so that all human beings at all times have access to sanitation facilities, which would include making available interim facilities for people living within the geographical boundaries of the country including those in relief camps, migratory workers, communities in conflicts and other such unsettled groups, irrespective of their citizenship; and
iv) Ensuring that the facilities/infrastructure created are in accordance with geographical and environmental conditions, even as they are sensitive to the specific needs of different sections of the Indian society and their life cycles, which would include designing facilities for men and women, the old and young, and those with varying forms of disabilities, in addition to making necessary water available for personal hygiene and Menstrual Hygiene Management (MHM).
v) Furthermore, within the context of the cultural practices in India, it is apparent that the right to water for personal hygiene is integral to the right to sanitation'.

However, in India, to achieve the goal of sanitation, the focus has been on construction of toilets to end open defecation. But there is no attention paid to the actual usage of toilets, or proper disposal of the waste in an environmentally safe manner. There is also the case of 'missing' toilets! The budget allocated for information and communication to make people understand the importance of sanitation is not sufficient enough. Also, concepts like community led total sanitation (CLTS) and 'naming and shaming' people who defecate in the open totally violates right to sanitation where we talk about protecting the 'right to dignity' of the people. To resolve the issues around sanitation, a holistic approach is required which takes into account the needs of the local people, especially the marginalised, and their participation in the programme. Unless this is done, India can neither achieve the sustainable development goal nor the 'Swachh Bharat' by 2019.

Many people have contributed to finalise this report. First of all we are thankful to all the authors – Sujith Koonan, Aanchal Kapur, NACDOR team and Daniel Edwin, Samar Bosu Mullick, Anjlee Agarwal, and Indu Prakash Singh and Anil Kumar – for their valuable contributions. We would also like to thank Josantony Joseph for writing the brief paper 'Right to Sanitation: Position Paper of Right to Sanitation Campaign in India', which has been a substantial input into the first chapter of this book.

Sujith Koonan and his colleague Lovleen Bhullar, between them, participated as resource persons in all the consultative the workshops that Forum organised on Right to Water and Sanitation and provided the much needed inputs and insights on the legal and institutional issues. Thank you very much for the same and we do hope to get your continued support for Forum's activities in the future too. We would also like to thank all the participants of the various consultative workshops for providing critical feedback to the ideas presented during these workshops. These insights have helped to develop a greater understanding on this issue. A special gratitude to the regional offices of WaterAid, India and all the associated partners in various states for their help in organising the workshops. We also acknowledge the inputs and encouragement from Forum's Steering Committee members.

WaterAid India, its partners and many other civil society organisations have has been running a campaign on 'Right to Sanitation' and Forum is part of this initiative. We would like to thank the National Campaign Coordination Team (NCCT) for their valuable inputs on the different short papers on right to sanitation brought out by the Forum as part of the Right to Sanitation Campaign. We would like to acknowledge the financial support and encouragement provided by WaterAid India. Special thanks to Mamata Dash of WaterAid for her support throughout the three years of collaborative work.

We are grateful to other SOPPECOM team members for their help in bringing out this paper. We thank Neeta Deshpande for the copy-editing, Mudra for the cover, layout and production of the booklet.

K. J. Joy and Sarita Bhagat

Pune
December 2016

# Right To Sanitation In India: Nature And Scope

1

*Sujith Koonan*

## Introduction

In 2014, the Government of India launched the Swachh Bharat Mission (SBM), its flagship programme on sanitation. This has triggered a significant momentum in the sanitation sector in India. Although the SBM is more or less a continuation of the erstwhile policy framework on sanitation in India (the Nirmal Bharat Abhiyan in the rural sanitation context), it did manage to bring sanitation to the forefront in the agenda of implementation agencies. The state machinery including the machinery at the local level has started focussing more on implementation of sanitation policies and programmes. Achievement of open defecation free status has all of a sudden become a target for the state governments and local bodies.

The central government and state governments have been implementing a number of laws and policies to address sanitation issues. Despite this focus and increasing budget allocations, the abysmal sanitation scenario in the country persists. Some of the key sanitation issues and concerns are:

a) Around 57% (626 million) of the 1.1 billion people in the world who practice open defecation are found in India. According to the 2011 census, the national sanitation coverage is 46.9%, whereas rural sanitation coverage is just 30.7%. For the marginalised such as the rural Dalits (23%) and tribals (16%), the figures are much lower. There are various reasons for the high rate of open defecation in India (Box 1.1).

b) In addition to the lack of toilets, the rates of toilet usage is miserably low, with rural areas in some states like Madhya Pradesh, Bihar, Jharkhand, Odisha, and Chhattisgarh with a usage percentage of 13.6% to 22% only.

c) The 2011 census report notes that 22.39% (or over Rs. 3.75 crores) of toilets supposedly built through various government schemes at individual household levels do not exist in reality. (Hindustan Times, 2015).

d) According to the 2011 census data, there are 794,390 dry latrines in India from which the human excreta are removed by human beings, mostly by Dalit women.

e) Women face several health, safety and dignity issues including physical and sexual violence due to a lack of sanitation facilities (Koonan and Bhullar, 2014).

f) India has over one million sewerage workers. An overwhelming majority of them work without adequate protective gears. As a result, they increasingly suffer from occupational diseases. Also, accidental deaths of sanitation workers are not uncommon.

**Box 1.1:**

**Some reasons why people prefer open defecation**

(a) Open defecation provides an opportunity, particularly for rural women, to socialise.

(b) Toilets are perceived to be "impure" places, which is why people construct toilets outside the house at a distance because they believe this is necessary for hygiene and cleanliness.

(c) Some cultures (for example, Adivasis) think of toilets, particularly toilets within the house, as unhygienic and do not consider open defecation to be unhygienic.

(d) Shortage of water is a significant problem in several places, which deters the construction and use of toilets.

(e) The availability of open spaces is conducive to open defecation.

The articulation of a right to sanitation is considered to be one of the ways to address sanitation issues. It is hoped that articulating sanitation in human rights terms is an effective approach to address sanitation issues in a way that respects equity, human rights and environmental sustainability. This makes sense in the Indian context because equity, human rights and environmental sustainability are at stake due to the abysmal sanitation scenario in the country. In this context, the first part of this paper examines the nature of the right to sanitation as recognised at the international level and in India. The second part advances a broad articulation of the right to sanitation in the Indian context that includes important aspects and dimensions of this issue.

## The Right to Sanitation: Developments at the International Level

### Evolution of Water and Sanitation as Co-rights

The right to water and sanitation is a fundamental human right, one that is absolutely necessary to fulfil the goal of ensuring the human dignity of each individual on this planet by ensuring an adequate standard of living for all. The right to sanitation has been recognised and affirmed in various international treaties and political commitments.

A number of international instruments, directly or indirectly, recognise the right to sanitation. The right to sanitation is explicitly recognised in some human rights treaties addressing specific groups, for example, women and children (Box 1.2).

General Comment 15 (2002) on the Right to Water adopted by the Committee on Economic, Social and Cultural Rights recognises personal sanitation as an essential component of the right. General Comment 15 also recognises ensuring of access to basic sanitation as a core obligation emanating from the Right to Water (Box 1.3).

**Box 1.2**

**The Convention on Elimination of Discrimination against Women, 1979, Article 14(2)(h):**

State parties shall ensure to women: …the right to enjoy adequate living conditions, particularly in relation to … sanitation...

**Convention on the Rights of the Child, 1989, Article 24**

1) States parties recognise the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2) States parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

   (e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation, and the prevention of accidents.

**Box: 1.3**

**General Comment 15 – The Right to Water, 2002**

The legal bases of the right to water

2. The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the r4isk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.

In addition to the legally binding treaties and the authoritative interpretation of legally binding treaties (e.g. General Comment 15) as mentioned above, there are soft law instruments (legally not binding) that recognise the right to sanitation. Most importantly, the UN General Assembly has contributed significantly to the normative endorsement of the right to sanitation at the international level. The UN General Assembly Resolution, 2010 is a landmark in this regard, which recognises the right to sanitation and acknowledges "the importance of equitable, safe and clean drinking water and sanitation as an integral component of the realisation of all human rights". (UN, 2010)

## Emergence of a Distinct Human Right to Sanitation

Until recently, international human rights laws were framed such that sanitation and water were considered together. As a result, more attention was paid to the right to water, and the right to sanitation was neglected. This is, for example, the case of legal instruments at the international level that refer to water and sanitation as 'a human right', and not 'human rights'. This includes resolutions adopted by the UN General Assembly and the UN Human Rights Council.

The attempt to recognise a distinct right to sanitation began with the initiative by the UN Special Rapporteur on the human right to safe drinking water and sanitation. The Special Rapporteur argued that sanitation is a distinct right on account of its specific dignity dimensions and therefore should be treated as a distinct human right (Box 1.4).

The emergence of the right to sanitation as a distinct right can be justified on various grounds.

(a) Explicit legal recognition of the right to sanitation will make it a legal entitlement, rather than a charity or only a moral priority.

(b) A legal entitlement provides opportunities for the right holders to make duty bearers accountable.

(c) Concerns and interests of vulnerable and marginalised groups will get priority attention.

The International Covenant on Economic Social and Cultural Rights (ICESCR), 1966 is perhaps the most important legal instrument in the context of the right to sanitation, but it is silent on the right to sanitation. However, it has been interpreted that Article 11 of the ICESCR was intended to broadly include many rights including the right to sanitation. In this context, in 2010, the UN Committee on Economic Social and Cultural Rights adopted the Statement on the Right to Sanitation (Box 1.5). This is probably the first step towards an explicit recognition of a distinct right to sanitation at the international level.

**Box 1.4:**

**Why a separate human right to sanitation?**

[i] mportance of sanitation is downgraded due to the political preference given to water. Naming both water and sanitation as separate human rights provides an opportunity for governments, civil society and other stakeholders to pay particular attention to defining specific standards for the right to sanitation and subsequently for the realisation of this right. Further, separating the right to sanitation from the right to water recognises that not all sanitation options rely on water-borne systems.

Source: Albuquerque and Roaf, 2012

**Box: 1.5**

**UN Committee on Economic, Social and Cultural Rights, Statement on the Right to Sanitation, 2010**

7. The Committee reaffirms that since sanitation is fundamental for human survival and for leading a life in dignity, the right to sanitation is an essential component of the right to an adequate standard of living, enshrined in Article 11 of the International Covenant on Economic, Social and Cultural Rights. The right to sanitation is also integrally related, among other Covenant rights, to the right to health, as laid down in Article 12 paragraphs 1 and 2 (a), (b) and (c), the right to housing, in Article 11, as well as the right to water, which the Committee recognised in its General Comment No. 15. It is significant however, that sanitation has distinct features, which warrant its separate treatment from water in some respects. Although much of the world relies on waterborne sanitation, increasingly sanitation solutions which do not use water are being promoted and encouraged.

8. In line with the definition of sanitation as proposed by the Independent Expert on Water and Sanitation as 'a system for the collection, transport, treatment and disposal or re-use of human excreta and associated hygiene', States must ensure that everyone, without discrimination, has physical and affordable access to sanitation, 'in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity'. The Committee is of the view that the right to sanitation requires full recognition by State parties in compliance with the human rights principles related to non-discrimination, gender equality, participation and accountability.

In 2015, the UN General Assembly adopted another resolution that specifically recognises the human rights to drinking water and sanitation (Box 1.6). This resolution is significantly different from the previous resolutions in the sense that it recognises the right to water and right to sanitation as separate rights instead of recognising the right to water and the right to sanitation together as a single integrated right.

**Box: 1.6**

**United Nations General Assembly Resolution – The Human Rights to Safe Drinking Water and Sanitation, 2015**

*Acknowledging* the importance of equal access to safe drinking water and sanitation as an integral component of the realisation of all human rights,

1. Affirms that the human rights to safe drinking water and sanitation as components of the right to an adequate standard of living are essential for the full enjoyment of the right to life and all human rights;
2. Recognises that the human right to safe drinking water entitles everyone, without discrimination, to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use, and that the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living.

The Government of India has not only signed ICESCR in the 1960s, which implicitly included the right to sanitation, but in the year 2010 has further confirmed its commitment by voting in favour of a specific UN resolution that recognised the right to sanitation explicitly. At the regional level, India has been a supporter of the articulation of the right to sanitation, for example through the South Asian Conference on Sanitation (SACOSAN) declarations.

### Summary

In light of the above, it is important to examine the current situation in India with regard to the establishment of a right to sanitation:

(a) The Government has been a supporter of the idea of the right to sanitation at the international level.

(b) The Government of India has consistently expressed its commitment towards a right to sanitation in SACOSAN conferences including the latest SACOSAN VI held in Dhaka in 2016.

(c) The Government of India has been translating its commitments by annually increasing the budget for sanitation through various programmes and schemes.

## Right to Sanitation in India

### Sanitation: Regulation and Governance

As per the Constitution of India, regulation and governance of sanitation in India is in the domain of state governments and local government. State governments have the power to adopt laws relating to sanitation. While the legislative

competence lies with the state government, the Constitution envisages major sanitation related responsibilities to be vested with the local governments (panchayats, municipalities and corporations).

### Human right to sanitation

The Constitution of India does not recognise the right to sanitation explicitly. However, the Constitution recognises the right to sanitation indirectly in different forms. The higher judiciary in India (the Supreme Court and High Courts) has interpreted the fundamental right to life under Article 21 of the Constitution to include the right to sanitation (Box 1.7). The right to sanitation is, therefore, a part of the fundamental right to life and is a justiciable right.

Sanitation is also a part of the 'Directive Principles of State Policy' (DPSP) in Part IV of the Constitution. More specifically, it can be read as part of Article 47, which provides that it is a duty of the government to raise the standard of living. Sanitation is undoubtedly a factor that contributes to a decent standard of living. Sanitation is also a part of Article 48A that makes it a duty of the state to 'protect and improve the environment'. Directive Principles are not enforceable and therefore no individual can approach a court against the government for its failure to give effect to the above-mentioned provisions. However, it is important in the sanitation context because they are fundamental norms for the government to implement.

**Box: 1.7**

**Cases on Right to Sanitation**
***Virender Gaur* v. *State of Haryana*, Supreme Court of India (1995)2 SCC 577**

Article 21 protects the right to life as a fundamental right. Enjoyment of life and its attainment including the right to life with human dignity encompasses within its ambit...sanitation without which life cannot be enjoyed.

***LK Koolwal* v. *State of Haryana*, High Court of Rajasthan, AIR 1988 Raj. 2**

Maintenance of health, preservation of sanitation and the environment falls within the purview of Article 21 of the Constitution as it adversely affects the life of the citizen and amounts to slow poisoning and reducing the life of the citizen because of the hazards created, if not checked.

### Right to Sanitation in other laws

The explicit recognition of the right to sanitation as a right deriving from the fundamental right to life is a huge step ahead. However, more clarity on the contents of the right needs to be developed ideally through a statutory framework so that both the right holders and the duty bearers are aware of the nature and scope of the right as well as remedies in case of violations. A comprehensive law addressing sanitation in general and the right to sanitation in particular is absent in India. At the same time, a number of statutes addressing different dimensions of sanitation exist. Some of the important statutes in this context are:

#### Duties of local bodies

In the rural context, sanitation is a responsibility of gram panchayats under the Panchayati Raj Institution (PRI) laws. The duties of the panchayats in this regard

include the duty to take all necessary actions for the improvement of sanitation, implementation of rural sanitation schemes, and carrying out sanitation related activities such as cleaning of public roads, drains, tanks, wells and other public places; construction and maintenance of public latrines; and maintenance and regulation of burial grounds. While the gram panchayat is supposed to take the lead role insofar as sanitation is concerned, panchayats at the block and district level also play crucial roles. Similarly, in the urban context, sanitation is a duty of urban local bodies under laws governing urban local bodies. Duties in this regard include disposal of solid and liquid waste. In some metropolitan cities, para-statal agencies are responsible for water supply, sewerage and sanitation (for example, the Delhi Jal Board).

Judicial forums in India have underlined the duty of local bodies to provide and maintain sanitation facilities. For example, the Supreme Court in the *Ratlam Municipality* case held that the urban local bodies cannot rely on lack of money as an excuse for not undertaking its sanitation related duties mentioned in the statute (Box 1.8).

**Box: 1.8**

***Municipal Council, Ratlam* v. *Vardhichand*, Supreme Court, AIR 1980 SC 1622**

A responsible municipal council constituted for the precise purpose of preserving public health and providing better finances cannot run away from its principal duty by pleading financial inability. Decency and dignity are non-negotiable facets of human rights and are a first charge on local self-governing bodies. Similarly, providing drainage systems- not pompous and attractive, but in working condition and sufficient to meet the needs of the people cannot be evaded if the municipality is to justify its existence.

**Laws Regulating Specific Places or Premises**

There are other statutes that recognise the rights and duties relating to sanitation in some specific places or premises such as work places and schools. These statutes recognise the right to sanitation by prescribing sanitation duties.

(a) Right of Children to Free and Compulsory Education Act, 2009 specifies norms for schools to provide toilet facilities for children and separate provision of toilets for girls.

(b) Labour laws address the sanitation needs of workers in workplaces. For example, it is mandatory for factories to have separate latrines and urinals for men and women under the Factories Act, 1948.

(c) According to the Contract Labour (Regulation and Abolition) Act, 1970, it is the duty of every contractor employing contract labour to provide 'a sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labour in the establishment' (section 18).

(d) According to the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, it is the duty of the employer to provide sufficient latrine and urinal facilities at work place which can be accessible to the building workers at all times (section 33).

(e) According to the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, the government is responsible for ensuring 'barrier-free environment in public places, work places, public utilities, schools and other institutions' which inevitably includes sufficient facilities at toilets according to the requirements of persons with disabilities (section 8).

**Manual Scavenging and Sanitation Workers**

The cleaning of sewerage systems and handling of human waste in general is still carried out primarily by Dalits, mostly Dalit women (Srivastava, 1997: 15). This improper and unscientific human excreta disposal practice is extremely dangerous to the health of the individuals involved in it, not to mention the mental and social trauma attached to it. Further, cit is also harmful to the environment. Thus the continuance of the practice of manual scavenging is a violation of the right to sanitation as well as many other basic human rights including dignity and health. Use of dry latrines as well as its manual cleaning by people belonging to a few lower caste communities is incompatible and contradictory to the right to sanitation.

Thus, the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act was enacted in 1993 to prohibit the construction of dry latrines and the employment of manual scavengers. However, most of the state governments, if not all, failed to implement the Act. This led to two important changes, a public interest litigation (PIL) filed in the Supreme Court in 2003[1] and the enactment of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013.

The 2013 Act is relevant in the right to sanitation context as it imposes a legal obligation on the owner of a property where a dry latrine exists to demolish it or convert it into a sanitary latrine. It also imposes sanitation related obligations upon the government (local bodies and other agencies), which includes construction of community latrines to replace dry latrines and the maintenance of such community latrines.

1. This PIL was finally disposed in 2014 with a direction to implement the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. See *Safai Karmachari Andolan* v. *Union of India*, Writ Petition (Civil) N0. 538 of 2003, Decided on 27 March 2014, http://www.ielrc.org/content/e1402.pdf.

**Box: 1.9**

**Rights of Sanitation Workers**

**Delhi Jal Board v. National Campaign for Dignity and Rights of Sewerage and Allied Workers and Others, (2011) 8 SCC 568 (Supreme Court of India).**

- Medical examination and medical treatment will be given free of charge to sewer workers and the treatment will continue for all such workers found to be suffering from an occupational disease, ailment or accident until the workman is cured or until death.
- The services of the sewer workers are not to be terminated, either by the respondents or the contractors engaged by them, during the period of illness and they shall be treated as if on duty and will be paid their wages.
- The respondents shall pay on the death of any worker, including any contract worker, an immediate ex- gratia solatium of Rs. one lakh with liberty to recover the same from contractors, if permissible in law.
- The respondents shall pay / ensure payment of all statutory dues such as Provident Fund, Gratuity and Bonus to all the sewer workers, including contract workers, as applicable in law.
- The respondents shall provide as soon as possible modern protective equipment to all the sewer workers in consultation with the petitioner organisation.
- The respondents shall provide soap and oil to all the workmen according to the present quota, but on monthly basis and not at the end of the year.

The 2013 Act is also relevant in the right to sanitation context as it brings the rights and safety of sanitation workers within its ambit as well, which was absent in the 1993 Act. While the 2013 Act does not elaborate the legal requirements to ensure safety and dignity of sanitation workers, the higher judiciary has filled this gap through directives (Boxes 1.9 and 1.10).

**Box:1.10**

**Compensation for sewer deaths**

***Safai Karmachari Andolan v. Union of India*, Supreme Court, 2014(4) SCALE 165**

14 (ii) If the practice of manual scavenging has to be brought to a close and also to prevent future generations from the inhuman practice of manual scavenging, rehabilitation of manual scavengers will need to include:

(a) Sewer deaths – entering sewer lines without safety gears should be made a crime even in emergency situations. For each such death, compensation of Rs. 10 lakhs should be given to the family of the deceased.

14 (iii) Identify the families of all persons who have died in sewerage work (manholes, septic tanks) since 1993 and award compensation of Rs. 10 lakhs for each such death to the family members depending on them.

### Summary

A combined reading of sanitation related case laws and statutes clarifies that the legal system in India recognises the right to sanitation. While statutes do not use the term 'right to sanitation', they spell out the right to sanitation through a language of legal duties of both government and individuals/institutions. The existing legal framework provides some hints to the operative contents of the rights.

(a) The language of duties instead of rights is used in statutes.

(b) It is a mandatory duty to provide basic sanitation facilities, that is a right to have separate toilets for women/girls and men/boys at public places, schools and workplaces.

(c) The law prohibiting manual scavenging adds the important caste and dignity dimensions of sanitation to the framework of the right to sanitation. It also brings in the rights of sanitation workers within the framework of the right to sanitation.

## Nature and Scope of the Right to Sanitation

### Contents of the Right

Sanitation has been defined by the United Nations as a system for the collection, transport, treatment, disposal or reuse of human excreta and associated hygiene. Accordingly, the human right to sanitation entitles everyone to sanitation services that are physically accessible and affordable, safe, hygienic, secure, socially and culturally acceptable, and which provide every individual the degree of privacy that s/he desires, and thus ensures dignity. (de Albuquerque, 2014: 4)

**Box: 1.11**

**Contents (Winkler, 2016)**

***Availability***: Availability of sufficient number of sanitation facilities

***Quality***: Sanitation facilities must be hygienically and technically safe to use. To ensure hygiene, access to water for cleansing and hand washing at critical times is essential.

***Acceptability***: Sanitation facilities, in particular, have to be culturally acceptable. This will often require gender-specific facilities, constructed in a way that ensures privacy and dignity.

***Accessibility:*** Water and sanitation services must be accessible to everyone within, or in the immediate vicinity of, household, health and educational institutions, public institutions and workplaces. Physical security must not be threatened when accessing facilities.

***Affordability:*** The price of sanitation and water services must be affordable for all without compromising the ability to pay for other essential necessities guaranteed by human rights such as food, housing and health care.

The human right to sanitation as evolved at the international level is limited in scope because it focuses on the issue of disposal of human excreta and associated hygiene. This is significantly different from the concept of sanitation (and thus the right to sanitation) as understood in India. For example, the concept of sanitation in India is much more than basic sanitation facilities and includes overall environmental quality and eradication of insanitary practices such as manual scavenging. It also includes the rights of sanitation workers. These aspects are not articulated in the context of the right to sanitation at the international level. Therefore, the right to sanitation in India needs to be more comprehensive to include India-specific sanitation issues such as manual scavenging and the rights of sanitation workers.

The articulation of a right to sanitation in India must necessarily include the following elements:

(a) Ensuring that sanitation needs and concerns of vulnerable and marginalised sections of the society such as tribals, the differently abled, homeless and migrant workers are addressed on a priority basis. A framework on sanitation based on the idea of a right to sanitation demands that priority attention must be paid to the needs of the marginalised and the vulnerable. At the same time, the process to address their issues should be carried out with their active participation and by taking into account their perspectives and needs; (See annexure)

(b) Ensuring that the facilities and infrastructure created are in accordance with geographical and environmental conditions, even as they are sensitive to the specific needs of different sections of Indian society and their life cycles, which would specifically include ensuring of designs that are inclusive for women and men, the old and young, and those with varying forms of disability, even as it ensures the availability of water for personal hygiene and menstrual hygiene management;

(c) Ensuring that no human being is manually involved in cleaning human excreta, which would specifically include the strict enforcement of the law prohibiting manual scavenging;

(d) Ensuring health and environmental safety;

(e) Ensuring safety and dignity of sanitation workers;

(f) Ensuring the availability of sanitation facilities in public places;

(g) Ensuring appropriate infrastructure and resources so that all human beings at all times have access to sanitation facilities, which would include making available interim facilities for people living within the geographical boundaries of the country, including those in relief camps, migratory workers, communities in conflict situations and other such unsettled groups, irrespective of their citizenship.

### Implementation of the Right to Sanitation

The state is the primary duty bearer in the context of the right to sanitation. There are two categories of obligations of the state deriving from the human right to sanitation - negative and positive duties. A negative obligation is the obligation not to interfere with the enjoyment of human rights, while a positive obligation is the obligation to take affirmative action for the realisation of human rights (Committee on Economic, Social and Cultural Rights, 2002).

It is the duty of the state to take steps to ensure 'progressive realisation' of the right to sanitation. Progressive realisation is not meant to be an excuse not to act. It only indicates the possibility of gradual and incremental improvement in the realisation of the right. Thus, the state is duty bound to explain and justify the measures taken to realise the right. The immediate obligation implied in this duty demands avoidance of all retrogressive steps and a duty to guarantee that relevant rights are exercised without discrimination. Thus, existing sanitation provisions must be extended to excluded or vulnerable groups. Further, it is also a duty of the state to ensure the utilisation of the 'maximum available resource'. Although these norms do not specify the precise steps to be taken by the state, it clearly demands positive initiatives from the state including a progressive increase in the fund allocation.

In addition, the right to sanitation also demands that a framework must be in place for the right holders to approach the state to remedy the violation of their right. Thus, the establishment of competent institutions through which individuals can claim their right is a must. A mechanism to ensure accountability of the duty bearers is important. Therefore, the institutional framework must also include mechanisms to ensure the accountability of implementing agencies.

In India, despite the presence of laws and constitutional norms and a vision, the law has always taken a back seat in the sanitation sector. Programmes and schemes have been regulating and governing the sector. Therefore, in the current scenario, sanitation programmes and schemes are extremely important from the implementation point of view.

Various programmes and schemes have been implemented by the government, most importantly the central government, over the last few decades. The SBM is the latest in this series. Over the years, the approach of the government towards

the sanitation sector has changed significantly. Initially the government perceived sanitation facilities as its responsibility. Thus, the key policy strategy was to provide subsidies to people to build household toilets. For example, the first flagship programme on rural sanitation, the Central Rural Sanitation Programme, followed a supply-oriented approach. Over the years, the approach has undergone drastic changes. At present, the strategy is to follow a demand-oriented approach. Thus, subsidies have been replaced by incentives. Another major change is the importance given to behaviour change and communication (BCC).

An effort to increase the awareness of the people is an important step from a right to sanitation perspective. BCC initiatives have been overwhelmingly focusing on the dignity of women as a factor to induce good sanitation behaviour, most importantly the construction of household toilets. For example, the rural sanitation guideline in Madhya Pradesh was named '*Maryada Abhiyan* Guideline – essentialising women's development' and it uses the dignity of women as a rationale to encourage men to construct toilet at home (Box 1.12). Further, the implementation of BCC has been criticised for using humiliation (mostly targeting women) as a method to induce people to stop open defecation (Poornima, 2013).

The focus on women in BCC initiatives is misplaced from the point of view of women's rights. On one hand it adopts an approach, giving an impression that household toilets are meant only for women and their dignity. On the other hand, pictures and narratives used for BCC promote social practices like *purdah* system that women's rights movements have been fighting against. Hence, the way in which implementation of the BCC needs to be revisited. It should be ensured that BCC activities are respect women and should not use social practices that negatively targets women and thereby affect the goal of realisation of women's rights and empowerment.

**Box: 1.12**

**Government of Madhya Pradesh, *Maryada Abhiyan* Guideline – Essentialising Women's Development**

PLEDGE

'I hereby pledge to withstand the dignity of my sister, daughter, wife and mother, as long as I am alive, by constructing a toilet in my house, with all members of my family using it and stopping the practice of open defecation…'

### Enforcement through Courts

The legal duties envisaged under the Constitution and various statutes are indeed legally enforceable. There are instances wherein the existing laws have been used by individuals and organisations to enforce their right to sanitation (Box 1.13).

Some of the important existing legal forums are:

(a) The Supreme Court and High Courts (writ petitions, for example, against local bodies for not fulfilling their statutory duties)

(b) Office of Lokayukta and Up-Lokayukta (complaint of maladministration and corruption against government officers including the office bearers of local bodies)

(c) Grievance redressal system established under the right to services law (for example, the Kerala State Right to Services Act, 2012)

(d) Ombudsman appointed under the PRI laws (provides a forum for citizens to approach with their grievance against panchayats)

(e) Statute specific bodies (for example, inspectors appointed under the Factories Act, 1948; The Chief Commissioner and the Commissioner appointed at the central and state level under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995)

In principle, the forums mentioned above are available for people to enforce their right to sanitation. Given the fact that most of the right holders whose rights are denied belong to the marginalised and vulnerable sections of society, it is not sure that they will be able to assert their rights. This points the need for a vigilant government mechanism to ensure accountability of the duty bearers.

**Box: 1.13**

**A. Ahammed Kabeer v. Pudunagaram Grama Panchayath, High Court of Kerala, WP(C) No. 26997 of 2006(L), 17 January, 2007**

In this case, sanitation related rights and duties were discussed before the Kerala High Court. The litigation began when the health inspector issued a notice to the petitioner to construct a soak pit covered by a slab in his property to discharge the sullage water from his house. The panchayat machinery acted upon complaints from other residents in the locality citing the reason of public nuisance. Having no space for a soak pit in his premise, the petitioner wanted to discharge the sullage into the nearby sewerage. The petitioner accordingly wanted the permission to lay a pipe which was denied by the panchayat. This action of the panchayat was challenged through a writ petition. The case was dismissed by the Court on procedural grounds – the petitioner was asked to approach appropriate authorities under the Kerala Panchayat Raj Act. However, it is to be noted that the panchayat admitted its legal responsibility to provide sanitation facilities under law and explained to the court the initiatives taken to fulfil this responsibility. This demonstrates that people can get the responsible government agency to explain actions taken for the realisation of the right to sanitation.

**Citizen and Inhabitants of Municipal Ward No. 17 Municipal Corporation Gwalior, High Court of Madhya Pradesh, 1992(1) MPJR 93**.

This case was filed against the Municipal Corporation for not providing a number of civil amenities including sanitation such as cleaning of public streets, places and sewers; disposing of night soil and rubbish, and construction of latrines and urinals. The High Court directed the Municipal Corporation to 'construct...sewer lines...construct public latrines and urinals at suitable sites so as not to cause any nuisance to the citizens'.

## Conclusion

The Right to Sanitation campaign takes heart in the fact that the Indian state has internationally committed itself to the realisation of such a right, and is increasingly allocating funds to establishing sanitation facilities in the country. However, there is a need to ensure that these efforts are not limited to an open-defecation-free focus, and that a holistic understanding of the right to sanitation that encompasses various dimensions of sanitation such as caste, gender, class and environment undergirds these efforts. (Koonan, 2012)

The right to sanitation has been recognised in India at different levels. From the perspective of the Constitution of India, sanitation is a fundamental right. The Supreme Court and different high courts have interpreted the fundamental right to life to include the right to sanitation. However, the contents of the right, related duties and a mechanism to ensure remedies and accountability are yet to be elaborated through a statute. The absence of details in laws has led to the regulation and governance of the sanitation sector in India through policies, programmes and schemes that do not speak the language of rights and do not guarantee any accountability mechanism.

Therefore, it is high time that the option of a specific statutory framework on sanitation that is based on the idea of right to sanitation is explored. Such a statutory framework should lay down principles and norms to guide the implementation of sanitation programmes and schemes (Koonan, 2012). Given the fact that sanitation is in the legislative domain of the state governments, the central government could frame a model bill to inspire or guide the state governments.

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# Right To Sanitation: A Gender Perspective

2

*Aanchal Kapur*

## Introduction

*"In a world where 2.5 billion persons lack adequate sanitation, where menstruation is often stigmatised, and women face multiple forms of discrimination, the failure to take immediate action to guarantee their right to water, sanitation and hygiene poses dire consequences. It demands the attention, not just of the human rights community, but of health professionals, governments, activists, economists and broader society."*[2]

Access to clean water and basic sanitation is essential not only for an individual's well-being, but also for achieving gender equality, sustainable development and poverty alleviation.[3] According to UN Water, access to safe drinking water and adequate sanitation services is not only vital to human health but has other important benefits ranging from the easily identifiable and quantifiable (costs avoided, time saved) to the more intangible (convenience, well-being, dignity, privacy and safety)[4]. In 2010, the United Nations General Assembly explicitly recognised the human right to safe drinking water and sanitation, and the Human Rights Council reaffirmed this recognition. The United Nations Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation (appointed in November 2014) has received repeated requests from States (both, national and local), service providers, regulators and others, to provide guidance and to clarify what this human right would imply for their work and activities. In fact, this recognition has given an increased visibility to the water, sanitation and hygiene sector, and many sector professionals see 'human rights' as an opportunity to raise political support for these essential services.[5] In fact in a recently held, 'Thematic Debate of the General Assembly: Water, Sanitation and Sustainable Energy in the Post-2015 Development Agenda', The UN Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation stressed the need for elimination of inequalities as the main objective of water and sanitation services.[6]

Since 1990, over one billion people across the world have gained access to improved drinking water supply and sanitation services. However, there are still 2.5 billion people who do not have sanitation facilities, and 1.1 billion people are still using water from unimproved sources (UN, 2014).

With this global background, in India today, 597 million people still practice open defecation, 792 million do not have access to improved sanitation facilities and 92 million people do not have access to improved water sources (WHO and UNICEF, 2014). In fact, about 69% of the rural population and 18% of the urban population continues to defecate in the open, and India accounts for about 58% of the world's open defecation (ibid). Only 31% of the 167 million

2. In the words of Craig Mokhiber, Chief of the UN Human Rights Office, Development and Economic and Social Issues Branch, as quoted in Every woman's right to water, sanitation and hygiene, March 2014. Available at, http://www.ohchr.org/EN/NewsEvents/Pages/Everywomans right to water sanitation and hygiene.aspx (last accessed on November 24, 2014)
3. UN Water, "Gender, Water and Sanitation: A Policy Brief", Inter-agency Task Force on Gender and Water (GWTF), a sub-programme of both UN-Water and the Interagency Network on Women and Gender Equality (IANWGE) in support of the International Decade for Action, 'Water for Life,' 2005–2015
4. Joint Monitoring Programme for Water Supply and Sanitation, 2013 Update; World Water Assessment Programme, 2009 as cited on http://www.unwater.org/topics/water-sanitation-and-hygiene/en/
5. http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/Handbook.aspx
6. http://www.un.org/en/ga/president/68/pdf/sts/WSSE_Agenda2142014-1.pdf

rural households have access to tap water and domestic toilets. Only 70.6% from 78,865,937 have access to tap water in urban India. Of this population that lacks access to improved sanitation across urban and rural India, 70% constitute women (Census, 2011). More than three to four million Indians die annually due to water, sanitation and hygiene-related problems.

Studies show that along with social, gender-based, health and environmental impacts, inadequate sanitation causes considerable economic losses including costs associated with death and disease, accessing and treating water, plus losses in education, productivity, time and tourism. Premature mortality, other health-related impacts of inadequate sanitation which lead to productive time lost to access sanitation facilities or sites for defecation and, drinking water-related impacts have also been analysed in such studies (WSP, 2011).

Research and experience on the ground show that poor hygiene, lack of sanitation and water quality exacerbates poverty by reducing productivity and elevating health costs. What is however not so visible are the gender-based impacts, despite the fact that it is women, children (especially girls), displaced, poor and other marginalised people whose well-being, health, productivity and opportunities are affected the most. And even more adversely affected among women and girls are those who are, physically/ mentally challenged, elderly, displaced, homeless and marginalised.

In a majority of societies, women have the primary responsibility for management of household water needs, sanitation and hygiene. Women also take the main responsibility for socialising children into the use of latrines and for providing health/ hygiene education to children (Hannan and Andersson, 2001). It is often women, who spend considerable time in cleaning their homes, kitchens and toilets and in the disposal of waste, who ensure the health and well-being of family members in the household. In 76% of households worldwide, women and girls are responsible for collecting water (WHO and UNICEF, 2010).

Since women carry the burden and responsibility of Water, Sanitation And Hygiene (WASH) management, lack of adequate facilities accentuate these tasks, while simultaneously, adding to health and security concerns for themselves and their children (especially girl children).Accessible and affordable water, sanitation and hygiene services will not only benefit women and girls by reducing time spent in management of these requirements, but will also improve their productivity,  health and access to diverse social, educational, economic and political opportunities. At the same time, it will lead to further benefits of decreased poverty and disease, and thus contribute to the economic and social development of communities and nations around the world.

**BOX 2.1:**

**The Terminology**

***Gender*** is a concept that refers to socially constructed roles, behaviour, activities and attributes that a particular society considers appropriate, and ascribes to women and men. These distinct roles and the (power) relations between women and men give rise to gender inequalities where one group (usually men) are systematically favoured and holds advantages over another (usually women). Inequality in the position of men and women can, and has, worked against societies' progress as a whole. Class, caste, ethnicity, culture, age, sexuality, disability, religion and urban/ rural contexts are also important underlying factors contributing to power differences, which play a major role in the way gender relations and responsibilities are constructed and played out in society. What is important to note is that gender is socially constructed; gender relations are contextually specific and often change in response to altering circumstances (Moser, 1993). Patriarchy as an ideology works in perpetuating and discriminating women in terms of their unequal access to and control over decisions, income, assets, natural and manmade resources as well as knowledge. Therefore interventions that are sensitive to the differing situations and needs of women and girls and other marginalised people can be effective in challenging these power differences and promoting gender equality.

*Gender equality* is the equal visibility, opportunities and participation of women and men in all spheres of public and private life; often guided by a vision of human rights, which incorporates acceptance of the equal and inalienable rights of women and men. Gender equality is not only crucial for the well-being and development of individuals, but also for the evolution of societies and the development of countries. However, common societal practices, that determine men as property owners, heads of households and main decision makers in the public sphere, often result in marginalising access to resources, views and preferences of women and girls. Despite important progress towards gender equality (e.g. regarding universal school enrolment, women's access to the labour market, and women gaining political ground), gender inequality is one of the most pervasive forms of inequality worldwide (UNDP 2005; UNFPA 2005; UN 2007).

***Water, Sanitation and Hygiene*** (WASH) or Water and Sanitation (WATSAN) services and rights include, access to clean water for drinking, bathing, washing and cleaning; access to clean and safe toilets at home, schools and in public spaces, toilets with basic sewage and drainage systems and waste disposal. Further, availability of electricity, cleaning and washing materials after using the toilet and for menstrual hygiene, are all basic needs for sanitation and hygiene, and need to be accessible to all.

Detailed, standard definitions and indicators have been developed by 'UN Water' to support effective monitoring of WASH targets. These specify the maximum time that should be spent collecting water, the minimum quality of water needed, and the safe management of these services. The definition of sanitation specifies which types of sanitation are acceptable, how many people could share a sanitation facility and arrangements for disposal of excreta. The definition of hygiene specifies standards for hand washing and menstrual hygiene management facilities.

*Source: UN Water (2014) – A Post-2015 Global Goal for Water - Synthesis of key findings and recommendations from UN-Water.* Available at, http://www.un.org/waterforlifedecade/pdf/27_01_2014_un-water_paper_on_a_post2015_global_goal_for_water.pdf

## Gender (In) Access to Water, Sanitation and Hygiene

*"We do not have water, toilets are a distant dream.*

*There are heaps of garbage near where we cook.*

*Who decided that our lanes would look like this?*

*Who listens to us when our cities are made?"*[7]

7. Voices of women living in resettlement slums in Delhi from documentary, "Our Lanes, Our Lives", 21 mins.| Hindi with English subtitles, by Tarini Manchanda, Aanchal Kapur, Ankur Kapoor, Produced by JAGORI-WICI, 2011, Accessed from Kriti Film Club http://krititeam.blogspot.in/2012/10/save-date19th-20th-october-for.html

## Different voices of women and girls across India– similar realities, same experiences

When there is a dearth of water and sanitation services, it is the women who suffer and have to find ways to manage and access what is available for them and their families. Women, girls and children are most vulnerable to the negative effects of the lack of WASH services – ill-health, reduction in productive and positive activities such as livelihood, education, leisure and entertainment etc., and susceptibility to sexual harassment and violence. From a girl child rights perspective, it is against the concept of human dignity and well-being, that girls in some parts of the world have to face a lifetime of discomfort, lack of privacy, indignity, ill-health and other associated risks, when they are forced to urinate and defecate in open sites. Often these are away from the community and accessible only at specific limited times.[8]

Added to these are issues of class, caste, ethnicity, age, and region which create multiple vulnerabilities for women and girls in their access to, and use of, sanitary services.

In most societies, including in India, women are key managers, promoters, educators and leaders of home and community-based sanitation practices. The provision of hygiene and sanitation facilities is considered a woman's task at the family or community level. However, women's concerns are rarely addressed in policy and practice terms, when planning and implementing WASH services. Along with societal barriers, the lack of a gender lens at the policy level often restricts women's participation in decision-making processes regarding clean water, infrastructure and hygiene facilities as part of sanitation programmes.

This lack of recognition of women's needs and involvement is due to the fact that in India, as in many other countries, women's views — as opposed to those of men — are systematically under-represented in decision-making bodies. However in the case of WASH this lack of recognition of women's roles is even more regrettable.

As with most household related work, all the hard work that women do around WASH gets categorised as 'care or nurture' – little realising its important contribution to production. In fact, none of this 'un-recognised' and 'unpaid' work translates into any significant gain for women, in terms of either access to resources, or the decision-making processes around them.

Due to women's low social and economic status in Indian society, they have less access to many basic amenities and rights. One of the most observable divides between women and men is the access to, and control over, water, sanitation and hygiene facilities. This lack of control and access can be linked to the fact that most resources and property, especially housing and land, are owned and controlled by men, and almost all asset and money-related decisions are made by men as 'heads' of the family. Women who are poor, rural, displaced, urban slum dwellers, single, elderly and physically and/or mentally challenged are even more disadvantaged in their access to, and control over, resources and services

8. Based on communication with Paul Calvert, South India In Hannan and Andersson, 2001

including WASH, and, this in turn, can lead them further into the trap of poverty, ill-health and deprivation.

Research shows that, in the cash-dependent economy of urban slums, gendered identities closely determine sanitation privileges. In general, it is mostly adolescent boys and girls and adult men who "can" invest in the resources and time, to look and feel clean. However, there are no simple divisions between women and men. For example, earning, unmarried daughters can claim, and spend a part of their salary on (perfumed) soap, cotton rags (bought from tailors) and cotton pads (for use as sanitary towels), and hair oil, etc. Daughters-in-law of the same age, who are generally not allowed to work outside the house, especially if they are recently married, cannot make the same demands and must rely on the "individual thoughtfulness" of their husbands. Age and disability have significant impacts on staying clean. The inability to earn and contribute to the family income, being abandoned by children and/or saddled with grandchildren, means that the elderly not only lack appropriate sanitation services but often can ill-afford even the most basic of their sanitation needs.

There are many such issues that are beyond the commonly held notions of gender and urban sanitation (Joshi, Fawcett, Mannan, 2011).

- the constraints of poverty and a failing masculinity for some poor men, which puts sanitation services and goods out of reach and/or requires their wives and daughters to step out and violate gendered boundaries;
- age and practical necessities intertwining to influence the social/ health compulsion to stay and feel clean;
- the enormous burden on women to be continually responsible for sanitation in the most compelling situations;
- of the additional burden on women to cope with the biological and social pollution attached to the female body in the absence of adequate water; and last, but not least,
- the social demand to hide the female body from public view in crowded urban spaces

While it is important to understand women and girls' roles, needs and vulnerability related to sanitation issues, it is even more important to place 'access to water, sanitation and hygiene' in the context of their rights. We consider the *access to and use of sanitation and its associated services and resources as a human right, and one that is basic for women's rights as citizens.*

The ***Right to Sanitation*** *is inalienably linked to the right to a life of dignity, health and safety for women and girls* – the lack of it affects their privacy to bathe, defecate and clean themselves; it affects their (reproductive) health and hygiene; it affects their mobility and safety from sexual violence; and it affects their roles and responsibilities in securing clean water, sanitation and hygiene for themselves, their children and families. In fact, for families who live in open squatters and streets (especially in urban areas), for those who have no choice but to defecate openly (whether in rural or urban areas), and for many who often live around waste dumps, it is the women who have to ensure that the

food they cook and consume is clean and does not impact the health of their households.

The ***Right to Sanitation*** *is also linked to girls' and women's right to (continued) education and (clean and secure) working environment* – the lack of it has meant that: girls' drop out of school in their puberty years; many working women have to use (dirty and unsafe) public and unisex toilets. They are embarrassed during their menstrual cycles and even subject to sexually oriented inscriptions on toilet walls, and are vulnerable to sexually violent behaviour and teasing by male colleagues and visitors.

A ***gender perspective on the right to sanitation*** not only enables us to identify the issues and impacts emerging from the lack of adequate and appropriate water, sanitation and hygiene facilities for women and girls, especially among poor and marginalised communities in rural and urban India, but also helps us recognise these for all girls[9] and women. A gendered understanding of the intrinsic linkages between women's roles and responsibilities, and the availability and accessibility of WASH services is crucial to the framing and advocacy of these from a rights' perspective.

## Beyond Needs to the (Gendered) Right to Sanitation

For too long now, water, sanitation and hygiene, along with its associated infrastructure and resources has been seen as a basic need, but it is one basic need that has still not been ensured by the state to its citizens. This discourse, therefore, needs to change from a needs-based focus to one that looks at these as 'rights'.

### Health of Women and Children

Women and children are most affected when there is a lack of clean water, toilets and other sanitation facilities. Giving birth in a setting without safe (drinking) water or sanitation has a negative impact on the health and survival of both, the mother and the baby. Ill-health of children, family members and themselves considerably increases women's work, burdens and worries, and may further affect their mental and physical health.

Lack of safe water, sanitation and hygiene causes upto 50% of under-nutrition deaths worldwide. Thus improved access to safe WASH is pivotal for ensuring good nutrition during the first 1,000 days of life. In fact, this is a critical period for ensuring health, and physical and cognitive development later in life (Prüss-Üstün et. al, 2008). Hygiene promotion and availability of supplies are keys to safe delivery and breastfeeding. Lack of safe drinking water can be a death sentence for babies who must be fed infant formula food.

> When toilets (or latrines) are appropriate and accessible they result not only in improved health but, equally, in moral, social and emotional gains. (Joshi, Fawcett, Mannan, 2011)

9. The rights of the girl-child, which have been in focus since the Beijing Conference in 1995, should include access to appropriate and adequate sanitation.

Universal access to water and sanitation could prevent thousands of child deaths and give women and children more working days to work or go to school respectively. Nearly 37.7 million Indians, especially children, are affected by waterborne diseases annually and almost 1.5 million children reported die of diarrhoea alone. 'WaterAid' (an international NGO) estimates that 73 million working days are lost due to waterborne diseases each year. The economic burden of poor water and sanitation facilities is estimated at $600 million a year (Khurana and Sen, 2014). Common diseases caused by the lack of clean and safe water include diarrhoea, typhoid, cholera, intestinal worms, hookworm and hepatitis.

When women and girls cannot access clean toilets or have to defecate in the open, many choose to 'hold it' or limit their consumption of food and drink to delay the need to relieve themselves, which increases the chance of urinary tract infections (UTIs). When women have to collect and carry water over long distances (especially while pregnant), the absence of WASH facilities implies greater vulnerability to health problems, such as uterine prolapse. Women who cannot access water easily to meet personal needs usually tend to ensure that the needs of the children and other family members are met first, and save water by not bathing and cleaning themselves, sometimes for days on end.

### Education and Health of Young Girls

The lack of clean water, sanitation and hygiene can prevent girls from attending school because they are too busy collecting water or caring for sick family members, or because there is no toilet in their school! Girls, particularly at and after puberty, miss school or even drop out of their schools due to the lack of sanitary facilities, and/or the absence of separate girls' and boys' toilets. According to India's 2011 'Status of Education Report', young girls between the ages of 12 and 18 miss five days of school every month – i.e.50 days a year – during their menstrual cycle because schools do not have sufficient funds to provide students with separate toilets. 23% of Indian girls drop out of school after reaching puberty, with irreversible effects on their health, growth and well-being (AC Nielsen and Plan India, 2011).

School sanitation is a problem neglected in many parts of India and the world. Hygienic conditions in schools are often very poor: hand-washing facilities as well as separate individual cabins and anal cleansing materials for the (girl) students are missing in many toilets and the deplorable conditions of these toilets often do not comply with the right for dignity, for both girls and boys. Children and teachers often do not drink water in adequate quantities, in order to avoid a toilet visit, which then has a negative impact on their health and causes psycho-social stress. Lack of education has an impact on the lives of children, particularly girls, including on their health, their freedom to plan their families, their self-esteem, their mobility for sports and other extracurricular activities or outside school activities, and ultimately on the cycle of poverty.

Simple measures, such as providing schools with adequate water and safe toilets, and promoting hygiene education in the classroom, can enhance girls' school attendance, and reduce health-related risks for all (UN Water, 2006). Not

only is it a key requirement schools have to meet under the Right to Education Act, even the Supreme Court has been encouraging the establishment of girls' washrooms for some time now, because research has pointed out again and again that the lack of separate toilets in schools causes far too many girl students to drop out. Easier access to such a basic facility can enable girls to flower and grasp new opportunities for them, to grow in confidence and attain a greater sense of personal dignity.

**BOX 2.2:**

**Situation of Girl's toilets in India**

District Information System for Education, (DISE) 2013 figures note that just about 50% schools in Arunachal Pradesh and Meghalaya have a girls' toilet. Assam and Andhra Pradesh do no better at 57% and 59% respectively. Orissa and Jammu & Kashmir stand at 68.86 to 65.36% for girls' toilets in schools, respectively. Bihar and West Bengal also have about 70% schools with a girls' toilet. In primary schools the situation needs much more attention. Considered backward on many social indices, Uttar Pradesh, however, surprises on this one - 96.92% of primary schools have a girls' toilet, 97% of all schools have a girls' toilet and 97.16% of these are functional. Madhya Pradesh can do better, as 88% of its schools have a girls' toilet and 92% of these are functional. There is also the other situation-- where girls' toilets exist but they are non-functional -- defeating their very purpose. DISE 2013-14 reveals that while only 64% of girls' toilets in Arunachal Pradesh are functional, only 71.67, 72.32 and 75.21% are functional in Andhra Pradesh, Meghalaya and Odisha have functional ones. What should be worrying everyone considerably is the lack of focus on the other major sanitation issue -- only 44.66 % of schools all-India had a hand wash facility near the toilet.

The boys have it slightly better- 92.67% of schools had functional boys' toilets. Andhra Pradesh, Assam and Meghalaya are the laggards here with 79.66%, 79.03% and 73.09% respectively in terms of functional boys' toilet. Union Territories--Daman and Diu, Lakshadweep, Chandigarh, Puducherry claim a 100% track record. In terms of drinking water, while 94.45% of schools had the facility in 2011-12, 95.31% have it in 2013-14. (District Information System for Education (DISE) data brought out annually by the National University of Education Planning and Administration)

*Source: http://indiatoday.intoday.in/story/pm-modi-i-day-pledge-girls-toilet-every-school/1/377321.html*

## From Shame to Self-esteem - Menstruation Hygiene Management

Post-puberty, girls and women menstruate 3,000 days on an average, over their lifetime. Menstruation is a biological process just like defecation or urination. However, in many communities it is shrouded in negativity and secrecy, leading to women and girls having poor knowledge of menstrual hygiene and associated health care. Menstruating women and girls in India are often ashamed, uncomfortable and often unsafe, as they try to hide the fact that they are menstruating. Lack of basic WASH facilities including shortage of clean water, accessible safe toilets with water and cleaning material further increases their problems of managing menstrual hygiene. Unclean water and lack of water to clean vaginal and anal areas can lead to UTI and Reproductive Tract Infections (RTIs), which increase the risk of cervical cancer. Women and girls' well-being, mobility, dignity, self esteem and ability to participate in society are all further adversely affected due to negative menstrual attitudes and taboos and lack of facilities to manage menstrual hygiene.[10]

10. Fact Sheet on Celebrating Womanhood: Menstrual Hygiene Management, Break the Silence, WSSCC, Geneva, 2013

*"I don't go to school on some days because…*

*I know I may need to use the toilet*

*How do I relieve myself if there isn't one?*

*I feel constipated, nauseated and anxious*

*My health is affected*

*I cannot concentrate on my studies."*

Women's and girls' access to toilets is further complicated because, in India traditionally, toilets were built outside the house due to the fact that bodily excretions such as urine, faeces and menstruation were considered unclean and taboo subjects. Traditionally, even when people could afford a toilet they would prefer to have it outside the house.

**A toilet for every girl's school within a year: Prime Minister Modi on the *Swacch Bharat Abhiyaan***

According to the DISE 2013-14 statistics, 84.63% of all schools have a girls' toilet while 80.85% of primary schools have this facility and in a good 91.62% of these schools, the toilet is also functional. With this data in place, the PM's agenda is definitely within hand even if it's not easy.

Approximately 355 million women and girls are said to menstruate in India on a monthly basis, and a woman requires 7,000 sanitary pads, on an average, to manage menstruation days before her menopause. Only 12% of young girls and women have access to, and use, sanitary napkins.[11] Millions of women and girls have no option but to use unsanitary materials like old rags, husks, dried leaves and grass, ash, sand or newspapers to contain the flow of menstrual blood.[12] Moreover, there are seldom mechanisms available for safe disposal of sanitary napkins in households, schools, colleges and community toilets. In this scenario, the plight of women and girls with physical and mental disabilities and those who are homeless is further compounded (AC Nielsen and Plan India, 2011).

Safe and private toilets allow for menstrual hygiene management at schools, and can go a long way in retaining adolescent girls in school, who otherwise may drop out. This, in turn, can reduce early marriage and early pregnancy, a risk factor for both, maternal and new-born deaths.

The breadth of neglect of menstrual hygiene is summarised in a review of the WASH sector based on literature and interviews with 85 water and sanitation professionals worldwide (Bharadwaj and Patkar, 2004). In all but a few pilot initiatives, menstrual hygiene management is absent from programmes for community water and sanitation, school sanitation, and hygiene promotion. It is not incorporated into infrastructure designs for toilets and environmental waste disposal, or into policies, training manuals or guidelines for health workers, engineers towards gender mainstreaming. While sanitation and hygiene programmes have successfully promoted affordable production and supply of soap and toilet construction materials for poor communities, the availability of affordable sanitary pads has not been considered (ibid).

11. http://www.indiasanitationportal.org/printpdf/5820
12. In 2010, the Union Health Ministry announced a Rs.150-crore scheme to increase access to the use of sanitary napkins to adolescent girls in rural areas, however, this has yet to take off fully. There are however, some civil society and social entrepreneurial efforts in place that are working towards providing cheap, clean and bio-degradable sanitary pads to women and girls in some parts of the country.

India accounts for 27% of the world's cervical cancer deaths, according to the World Health Organisation. This incidence rate is almost twice the global average, and doctors studying the disease in India say poor menstrual hygiene is partly to blame. The homespun solutions to costly sanitary napkins raise the risk of vaginal infections. A weaker immune response can compromise the body's ability to fight the sexually transmitted *human papillamavirus (HPV)*, the microbial cause of most cervical cancers (Bruni et.al., 2015). There is no reliable data to show the role menstrual hygiene plays in the prevalence of cervical cancer in India, according to Rajesh Dikshit, Chief of Epidemiology at Mumbai's Tata Memorial Hospital, India's biggest cancer treatment centre. Some analysis, he says, points to a link to clean water access: "Where there is no water, in India there are very high rates of cervical cancer. Where you have water, you don't have the cervical cancer" (Khan and Gokhale, 2013)

## From Violence to a Life of Dignity and Safety[13]

One of the most important contributions of women's groups and feminists to the WASH discourse has been to emphasise women and girls' increased vulnerability to harassment and violence when they have to travel long distances to fetch water, use shared and unsafe toilets, or practice open defecation. Feminist studies have reflected on the issues of violence, fear and coping mechanisms that women and girls encounter while meeting their basic water, sanitation and hygiene needs, thus impinging on their right to essential services and life.

Hundreds of thousands of women and girls across India in urban slums and rural areas face the daily shame and fear of having to defecate in the open. Government statistics suggest that 51% of unrecognised slums and 17% of recognised slums are entirely without latrines (Gosling, 2014). Only 66% slums have latrine within the premises and 34% do not have latrine in the premises (GoI, 2013).

*"A hand struck me from behind and I thought it was a pig. But when I caught his hand, the man pulled away and ran."*[14]

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"With one out of three women worldwide lacking access to safe toilets, it is a moral imperative to end open defecation to ensure women and girls are not at risk of assault and rape simply because they lack a sanitation facility." United Nations Secretary-General Ban Ki-Moon on World Toilet Day, 19 November 2014

*Source: http://www.un.org/apps/news/story.asp?NewsID=49378#.VG3HgHl0xMs*

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These voices of women and girls loom large, as a majority of them wait till sun-down to defecate since they have to walk to isolated locations outside the village or to the peripheries of their city dwellings, leaving them vulnerable to molestation, assault and potential rape (COHRE, WaterAid, SDC and UN-HABITAT, 2008). That is why women often drink less water, attempting to 'hold out' until the evening. Women may similarly also attempt to modify their diet, by not eating certain fibrous foods such as pulses or leafy vegetables. An unbalanced diet often results in negative long-term health consequences. These practices, combined with a lack of sanitation facilities, and the use of dirty and unsafe places for defecation result in health problems such as urinary and reproductive tract infections and bladder stones, among other ailments, headaches, etc. The

13. References from JAGORI and UN Women (2011); Lennon, S. (2011); and Gosling, L. (2010).
14. A woman's voice from documentary 'Our Lanes, Our Lives', Jagori, 2012.

shame and indignity of defecating in the open also affects women's self esteem, as does the lack of water for washing clothes and personal hygiene.

*"They tease us when we go to the public toilet…whistling, clapping, singing, laughing and passing lewd comments. They take pictures with their cell phones. In many toilets there are sexually oriented words and graffiti which embarrass us. Boys peep through the broken windows or doors of toilets in schools or communities."*[15]

The veil of silence, fear and shame that shrouds their daily exposure to sexual harassment and sexual violence, gives women and girls little voice to end their impunity, or demand services that would reduce their vulnerability. A pre-requisite of the right to sanitation is that policies and programmes must prioritise safety and privacy for women and girls, and actions must be aimed at reducing violence against women, while highlighting the importance of access to safe water and sanitation.

In many communities, queuing up to use the (few and available) public toilets for men and women, causes fights and brawls between neighbours, creates enmities that make women and girls more vulnerable to assault.

Sexual violence against women is a major public health problem and a human rights violation. It has direct negative effects, including psychological, health and economic effects on individual women, their families and the community. *The links between the right to sanitation and the right to a life without violence need to be reiterated at local, policy and legal levels.*

### Women's Economic Empowerment

Women and girls perform most of the unpaid labour associated with WASH in households and communities. This reduces the time they have available for education, economic activities and leisure. A lack of economic independence compromises their empowerment and perpetuates gender inequality.

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Cleaning toilets is considered a 'dirty and low' job, performed by specific 'caste' women and men Sanitation is not just a problem of 'lack of facilities' but also one where sanitary workers assigned these tasks often do not do their jobs effectively – either due to low wages, lack of respect shown to them as 'workers' because of the kind of job they do, or because their health and safety concerns are ignored. In fact, the right to sanitation must also include the rights of sanitation workers to have safe and clean equipment and materials required to fulfil their job efficiently. Occupational health and safety concerns of women sanitary workers must also find resonance in this discourse.

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With improved access to WASH, women have more time to undertake income generating and entrepreneurial activities. WASH programmes can provide women with adequate water supply to carry out economic activities and create opportunities for paid work. Women's involvement in decision-making about water resources and in WASH programmes is critical to their empowerment, but it is important not to overburden them with additional unpaid work, on top of their existing responsibilities.

15. Voices of low income young women from 'Apna Haq', a documentary film and photo booklet on lack of access to toilets, made by low-income community girls in Delhi, Feminist Approach to Technology, New Delhi, 2014, Available at, http://krititeam.blogspot.in/2014/03/apna-haq-new-media-and-girls-rights.html.

## International and National Framework on Sanitation as a Right

The right to water and sanitation is a fundamental human right necessary for an adequate standard of living and, human dignity. Understanding and advocating for the right to sanitation for women and girls implies recognition of the legal and policy frameworks defined across various International Instruments and Conventions:

- Access to water and sanitation are recognised as fundamental human rights incorporated in the International Covenant on Economic Social and Cultural Rights (ICESCR). The Covenant is the primary basis for the human right to water and sanitation and other economic, social and cultural rights and is ratified by 160 countries, including India, making it legally binding upon them in international law. The implication of these rights is that these basic services should be adequate, accessible, safe, acceptable and affordable for all without discrimination, and violations of these constitute a violation of women's rights.
- The UN Committee on Economic, Social and Cultural Rights *General Comment No. 15:* The Right to Water (2002), U.N. Doc. E/C.12/2002/11. Sanitation is also included in this General Comment.

*The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water related disease and to provide for consumption, cooking, personal and domestic hygienic requirements* (para 2).

And,

*…access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources.*

In accordance with the rights to health and adequate housing,

*General Comments No. 4 (1991) and 14 (2000):State parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children* (para 29).

- *Access to water and sanitation is thus required in order to realise other human rights explicitly contained in the General Comments of ICESCR, including health, adequate housing, and education:*
    1. *General Comment No. 14: The right to the highest attainable standard of health, UN ESCOR, 2000 para 43 (c). (See also paras 11, 12, 15, 36).*
    2. *General Comment No. 4: The right to adequate housing, UN ESCOR, 1991, UN Doc.E/1992/23, para 8 (b).*
    3. *General Comment No. 13: The right to education, UN ESCOR, 1999, UN Doc.E/C.12/1999/10, para 6 (a).*

- *The UN Economic and Social Council in its Draft Guidelines for the Realization of the Right to Drinking Water and Sanitation (UNESCO, 2005)* has defined the right to water as "the right to a sufficient quantity of clean water for personal and domestic uses" and the right to sanitation as "the right to have access to adequate and safe sanitation that is conducive to the protection of public health and the environment".

**BOX 2.3:**

**Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation**

Having access to safe drinking water and sanitation is central to living a life in dignity and upholding human rights. Yet billions of people still do not enjoy these fundamental rights. The rights to water and sanitation require that these are available, accessible, safe, acceptable and affordable for all without discrimination. These elements are clearly interrelated. While access to water may be guaranteed in theory, in reality, if it is too expensive, people do not have access. Women will not use sanitation facilities which are not maintained or are not sex segregated. Having a tap which delivers unsafe water does not improve one's access. Human rights demand a holistic understanding of access to water and sanitation.

The rights to water and sanitation further require an explicit focus on the most disadvantaged and marginalized, as well as an emphasis on participation, empowerment, accountability and transparency. The mandate of the Special Rapporteur on the 'human right to safe drinking water and sanitation' was established to examine these crucial issues and provide recommendations to Governments, to the United Nations and other stakeholders. Mr. Léo Heller was appointed (Special Rapporteur) in November 2014, and began his work on the mandate on 1 December, 2014.

*Source: http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx*

**BOX 2.4:**

**The Millennium Development Goals (MDGs)**

In September 2000, the United Nations Millennium Summit agreed on a set of time-bound and measurable goals aimed at combating poverty, hunger, illiteracy, environmental degradation and discrimination against women. Over 100 world leaders at the gathering in New York also agreed on the third Millennium *Development Goal (MDG) - "to promote gender equality and to empower women"* -- an MDG that had an initial deadline of 2005, but was extended to 2015.

MDG-7 is *"to ensure environmental sustainability"* and target 10 is *"to halve the proportion of people without access to safe drinking water and sanitation by 2015."* The success of achieving this MDG is measured by the proportions of both, rural and urban populations who have sustainable access to improved water and sanitation. In addition, the 'Millennium Project Task Force on Education and Gender Equality'; has proposed that additional indicators for MDG-3 should include the "*hours per day (or year) that women and men spend fetching water and collecting fuel*".

The world remains off track to meet the MDG sanitation target of 75% and if current trends continue, is set to miss the target by more than half a billion people. India is one of the countries that is not on track on this target, though it is on track viz. the drinking water MDG target. Unless the pace of change in the sanitation sector can be accelerated, the MDG target may not be reached until 2026. Priority attention to issues of Water, Sanitation and Hygiene by countries, communities and individuals could fast-track the achievement of the Millennium Development Goals by the end of 2015 and free women from a cycle of poverty, disease, child mortality and low productivity.

*Sources: WHO and UNICEF, 2014; UN, 2014; UN Millenium Project, 2005; UN Inter-Agency Network, 2005*

- *The UN General Assembly Resolution 64/292:* The Human Right to Water and Sanitation (2010) recognises 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 (UN General Assembly, 2010)[16]: para 8).

- *Principle 11 of the Habitat Agenda, adopted in the framework of the Second UN Conference on Human Settlements (1996) states that:*

  *Everyone has the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation, and to the continuous improvement of living conditions.*

- *The 'Program of Action' of the 1994 Cairo 'Conference on Population and Development', endorsed by 177 States, recognises in Principle 2 that:*

*Countries should ensure that all individuals are given the opportunity to make the most of their potential. They have the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation.*

- *Article 14 (2) (h) of the 1979 'Convention on the Elimination of All Forms of Discrimination against Women' (CEDAW) stipulates that State parties shall ensure to women:*

*…the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication.*

*In addition to the above, there are some provisions in the* ***Indian Constitution, case law and national policies*** *that are relevant to the right to water and sanitation as given below:*

- Most of the Municipal Acts make sanitation and water supply an obligatory function of the local authorities:, for example, Uttar Pradesh Municipalities Act, 1916, Karnataka Municipal Corporations Act, 1976, The New Delhi Municipal Corporations Act, 1994 (Section 147). The Government of India has also recognised this obligatory function and stated that, women and children constitute 70% of the population and thus deserve special attention and therefore ending gender-based inequities faced by women and girls must be accorded the highest priority (Planning Commission, 2011).

- Case law in India, drawing on the Indian Constitution and Municipal Acts, has recognised the Right to water and sanitation. Examples of the right to water in case law include: S.K. Garg v. State, AIR 1999 All 41 (India 1999); M.C. Mehta v. Union of India, AIR 1998 SC 1037 (India 1998); Subhash Kumar v. State of Bihar, AIR 1991 SC 420 (India 1991) (noting that the right to live includes the right to pollution-free water necessary for the full enjoyment of life); Attakoya Thangal v. Union of India, 1990 KLT 580 (Kerala, India 1990). Examples of the right to sanitation cases include: Municipal Council, Ratlam v. Vardichan (Supreme Court of India, 1980), (1980) 4 SCC 162. In this case the Supreme Court stressed that, *"[d]ecency and dignity are non-negotiable facets of human rights."* The Court ordered the municipality to decrease its budget on other

16. http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/292

items and use the savings for sanitary facilities and public health measures, including the construction of sufficient numbers of public toilets.

- The Delhi High Court orders: 1) On W.P.(C) 29/2010 on 2, February 2011, the court directed that ten mobile toilets should be made available at Chabi Ganj shelter home within a week and also directed the Health Secretary of the Government of the National Capital Territory of Delhi to consult the Delhi Urban Shelter Improvement Board (DUSIB) to assess how many permanent toilets are necessary, and that the same shall be constructed within a period of two months; and, 2) On W.P.(C) 29/2010 on 25, May 2011 in which it observed that: "It will be an anathema to Article 21 of the Constitution of India if the people in need and in abject poverty, who are required to survive and live in shelter homes, are not provided with drinking water and fans". The court directed DUSIB to provide drinking water in the shelter homes and also provide at least two toilets, which are kept and maintained in a hygienic and clean condition.

- The National Water Policy (2012) has recognised that water is fundamental for life, livelihood, food security and sustainable development. It states that "water needs to be managed as a common pool community resource, held by the state, under public trust doctrine to achieve food security, support livelihood, and ensure equitable and sustainable development for all. The Centre, the States and the local bodies (governance institutions) must ensure access to a minimum quantity of potable water for essential health and hygiene to all its citizens, available within easy reach of the household" (National Water Policy, GoI, 2012).

The Government of India's 'Total Sanitation Campaign (TSC)', a national programme, was launched in 2010 to ensure access to improved sanitation. In its guidelines the TSC recognised the need for the programme to incorporate hygiene promotion, provide women's sanitary complexes (community facilities with latrines and bathing facilities), and construct girls' toilets at schools.[17] Since then, the TSC has been restructured and renamed the '*Nirmal Bharat Abhiyan'* with the Congress Party declaring in 2012 that it would end open defecation in the next decade. More recently, on 2, October 2014, the Prime Minister of India, Shri Narendra Modi, launched the '*Swachh Bharat Abhiyaan* (SBA)', which aims to eliminate open defecation in India by 2015 by building more public and private toilets. Women and girls are the 'face' of this campaign, both, as 'role-models' and the 'constituency' of the SBA, and yet many of their concerns are not made visible to the extent needed.

The recognition of women's rights to clean and safe water, sanitation and hygiene in the various provisions and policies at the national and state levels need to become part of the Right to Sanitation Campaign's advocacy and lobbying agenda in the near future, as much as the fact of gender-based access to and use of sanitation facilities and, participation in critical decision-making spaces. These include sanitation infrastructure design (both, home and public utilities), maintenance and resourcing of sanitation facilities, spatial and safety concerns with respect to open defecation, public toilet use, distance from home, availability of water, waste disposal and management systems, etc.

17. Menstrual hygiene in South Asia: A neglected issue for WASH Programmes Water Aid report, London 2010

## Claiming Rights - Women, Sanitation and Policy-making

Attention to gender perspectives in water and sanitation programmes has often been limited to an analysis of women's contribution in relation to men's, and the impact on women in terms of anticipated benefits within the framework of the existing division of responsibilities. The status quo regarding roles, resources and power has been accepted as given (Hannan and Andersson, 2001). Promoting a universal access approach rather than a gendered approach has made the differential needs of men and women invisible (Lala and Basu, 2012) in most sanitation programmes. This needs to change at the level of policy and programming if we are to engender the right to sanitation.

On the other hand, 'participation' is a key to claiming rights. Participation can create sustainable projects by: (a) including women as primary users, consumers, and managers; (b) increasing women's social capital and (c) accessing women's knowledge (O'Reilly, 2010). A lack of informed participation[18] by women often results in WASH services that are inappropriate, inaccessible and unaffordable. Programmes that include women at all stages of planning, implementing and monitoring are more efficient, effective and sustainable than those that do not prioritise equitable participation and decision-making.

Sometimes there is opposition to positioning women at the centre of water resource management initiatives, even when this comes as a response to a directive to include a majority or a quota of women in decision-making. This opposition is usually because women are seen to be stepping outside their traditional, non-public roles into public and technical areas for which they are perceived to be unqualified and unsuited. However, women can, and do, make a substantial contribution to water and sanitation services and do have a right, as human beings, to participate in issues that affect their lives and those of their families. It is a reality, even if a patriarchal and gendered one, that women bear the main responsibility for keeping their households supplied with water, caring for the sick, maintaining a hygienic, domestic environment and bringing up healthy children. It is they who are most likely to know what is required and where. An analysis of gendered access to public and private spaces is one way to see afresh the gendered power relations affecting drinking water supply and sanitation. (O'Reilly 2010). Getting these important details right means better WASH services and quality of life for all in the community.

18. While pursuing women's participation it would be crucial to consider the possible socio-economic costs involved, given the multitude of other responsibilities women have. (Cleaver, 1997, 1998; Hannan 2000, as cited In Hannan and Andersson 2001)

**BOX 2.5:**

**Six basic R's for a more gender-aware approach to water and sanitation improvements**

The *roles/ responsibilities* -- the actual and potential contributions of women and men in these areas and the constraints and opportunities related to these; the *relations* between women and men and how these are reflected at household and community levels and sustain differences and inequalities between women and men; the *resources/ rights* involved and the problems experienced by women, as opposed to men, in terms of access to, and control over, these resources and the securing of rights; and the *representation* of women and men in decision-making processes, both formal and informal, and the need to promote more equitable involvement of women where inequalities are observed.

*Source: Hannan and Andersson, 2001*

The question to ask is: If women are placed at the centre of decisions about water supply, sanitation and hygiene promotion programmes and activities, how does this benefit the wider community? There is evidence to show that water and sanitation services are generally more effective if women take an active role in the various stages involved in setting them up, from design and planning, to the ongoing operations and maintenance procedures required to make any initiative sustainable. Besides dealing with these technical and practical issues, women play an important role in educating their families and the community about hygienic practices. Again, evidence suggests that women's involvement makes these ventures more likely to succeed.

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An analysis of gendered access to public and private spaces is one way to see afresh the gendered power relations affecting drinking water supply and sanitation.

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Water and sanitation services bring a host of benefits for community development. They bring girls back into school, women into employment, and improve health, dignity, and well-being and independence.[19]

WASH programmes need to work in collaboration with other initiatives that address discrimination and women's rights violations. We need to rethink how the goals of the water sector themselves should be defined. Are they geared towards social justice and sustainable use is a question we must not forget to ask. Programmes must strengthen the connections between the rights to water and sanitation and other rights, including the rights to health, education, food, work, land, freedom from violence, mobility and the right to information.

The effects of both, improved service provision and better knowledge about hygiene, are felt throughout the wider community, most obviously through improved general health and quality of life. There are more subtle effects of these measures on the lives of women, such as greater confidence, increased capacity to earn money, and the fact that women are likely to be healthier, happier and have more quality time at home and in the community. In the work space, women workers can advocate for a clean and safe work environment, toilets, and drinking water along with working conditions that are sensitive to women's sanitation and hygiene needs. They could also keep in mind the heterogeneity of women by age, pregnancy status, mental or physical challenges, any specific health problem, living at home or homeless.

*When we look at sanitation as a personal issue,*
*the responsibility always comes on women...*

*How can we look at it as a social and gender issue?*

*…when we incorporate the agenda*

*in local governance, in budgets, in plans, in the infrastructure*

*in equal participation by women and men…*

*…when we understand access to and use of sanitation services*

*vis-à-vis gender based power relations*

*when we ensure that sanitary workers do their jobs*

19. WaterAid (2012), cited in Homeless International (2012). How can water and sanitation provision empower the urban poor? Learning Brief No 2, June 2012.

*…when we lobby with political representatives at local, national, regional and international levels*

*…when we organise collectively to ensure*

*that we have clean lanes and toilets, that water, waste disposal and sanitation management is effective*

*that we live unafraid, that our girls and children are safe*

*and we have a clean, comfortable and inclusive living environment.*

**BOX 2.6:**

**Flagposts for the Future**

Mainstream research and policy on gendered sanitation broadly speaks about different problems faced by poor women and links these problems to poverty, insecurity of land tenure due to the threat of resettlement, uncertain access to water, and lack of, or inadequate, sanitation (UN 2008 in Jewitt 2011).

A neo-liberal development paradigm promotes the gendered management of poverty, i.e., both men and women as 'free' individuals have a responsibility to support themselves (especially in the face of marital insecurity for many slum-dwelling women) and contribute to India's growing economy (Dhanju, 2100).

However, feminists argue that a gender perspective to sanitation must acknowledge the power relations and division of labour between women and men that impacts women's access, use and management of sanitation services, at the family, community and state level (in terms of their participation in WASH programmes). An analysis of gendered access to public and private spaces is one way to see afresh the gendered power relations affecting drinking water supply and sanitation.

Some important flagposts that have emerged from the Right to WASH Summit organised by the Right to Sanitation Campaign (in the context of the newly initiated *Swacch Bharat* Mission) are as follows:

- *Gender has to be central to the WASH discourse at every level, from programme to policy.*
- WASH programming has to be based on the recognition, and a thorough analysis, of inter-sectionality between Gender, Caste and Class with respect to open defecation, toilet use and maintenance, as well as access to water and hygiene management. Disaggregated data and information around these will facilitate appropriate responses.
- *Women are consumers, producers and managers with respect to WASH –- this needs to be central to WASH programming.*
- Giving responsibility to women has to go along with rights and resources.
- *The concept of common toilets, instead of individual/private use and management of toilets has to be re-instituted to address gender issues under WASH.*
- *Technology is important but culture and economics is critical for the success of WASH policies and programmes. An analysis of deprivation and discrimination of women from an economic perspective should inform such programme designs.*
- *Gender sensitive public toilet infrastructure and designing is crucial from the safety and cleanliness perspective.*
- *WASH programming must factor in learning's around gender and related inequalities as well as vulnerabilities, and design programmes that are gender just.*

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# 3 Dalit and Right to Sanitation

*NACDOR[20] team and Daniel Edwin*

## Introduction

Human rights are primarily rights that enable a person to live life with dignity. Access to adequate sanitation is closely related to human dignity in a manner that is obvious and experienced daily by the millions who are excluded from being able to access sanitation facilities. In addition to being a human right, sanitation is now universally recognised as a basic determinant towards the maintenance of individual and community health, quality of life and development. Denial of the right to sanitation for large numbers of the poor and the marginalised is a clear violation of their human rights.

## Why A Dalit Perspective on the Right to Sanitation?

The perspective of Dalits, on the right to sanitation, is somewhat different from other sections of society in the sense that it is much more comprehensive and goes much beyond toilets. Treated as the "waste–absorbers" of Indian society for millennia, cleaning the habitations of others and having the waste of others dumped into their habitations, or forced to have their habitations in the most polluted areas—the Dalits are in a unique position to define and demand the *right* to sanitation which is distinct from, but includes, sanitation as a *service* or *scheme*. The key differentiator is *discrimination*, wherein they are prevented from using facilities even when such facilities exist— a denial of access arising from an all-pervasive caste- based discrimination. Added to this is the caste-mandated role of providing sanitation services to others and then bearing the consequences of being stigmatised as being polluted because of this forced occupation. Enforcement of differentiation is done through a combination of religion and economics, which creates a chokehold on livelihood options and prevents any mobility from this caste-enforced occupation.

The belief of impurity encourages segregation and ensures invisibility, including glorification of manual scavenging as a 'spiritual experience'. Ambedkar calls it "the practice of territorial segregation *a cordon sanitaire*", (Ambedkar, 1948). Segregation has two consequences, both of which occur simultaneously and feed on each other: Sanitation and other infrastructure is not provided in Dalit habitations or, if provided, is of distinctly lower quality; waste is dumped into these locations since the people are 'anyway dirty' or they are forced to stay in these locations because they are denied space anywhere else. Dalit men and women emerge from these ghettos, clean the affluent neighbourhoods without touching anybody, and then withdraw at the end of the workday.

Therefore, the Dalit perspective on the right to sanitation includes the right to (a) an environment that is hygienic, with adequate right to water (b) non–discriminatory access to sanitation infrastructure and services (c) eradication

20. NACDOR- National Confederation of Dalits Organisation

of manual scavenging and occupational choice along with occupational health benefits and, where necessary, rehabilitation and non–stigmatisation (d) not have others pollute their environment.

Central to it all is the eradication of untouchability, stigma and caste-based discrimination without which the right to sanitation cannot be realised in India. It involves an attitudinal change that is rooted in notions of 'ritual pollution', and goes much beyond the traditional brick and mortar analysis and response.

## The Baggage of History and the Continuing Consequences

### The Hierarchy of Pollution

In India, Dalits come under the broad[21] administrative classification Scheduled Castes (SCs), categorised as 'poor', 'disadvantaged' and 'socially excluded' groups who, due to caste-based discrimination, experience greater challenges in accessing rights, entitlements and opportunities in every sphere of their life. According to the Census of India 2011, 16.6% of the total population are SCs. Despite constitutional rights, they are deprived of basic civic amenities like water, sanitation, health care and many more.

Indian society is organised on caste lines, which is a hierarchy of ritual pollution. The notion of ritual pollution is so ingrained in social organisations that even bodily functions and body parts fall victim to this classification and stigma. Consequently, every woman during her menstrual periods is 'impure' and every person—female or male, adult or infant—is 'impure' on the left side. 'Clean' acts cannot be done with the left hand, lending a new meaning and stigma to the word sinister. All society is divided into various 'castes' with varying degrees of pollution, with one section—the Dalits—historically being considered so polluting that they were stigmatised and made untouchable, un-seeable and un-hearable, since their very touch, sight or sound was considered polluting.

## Caste-Based Discrimination in Sanitation and Its Consequences

The privations of this section of society results in several, severe real world consequences. Dalits had to live separate from the main village, and in its most polluted surroundings. Though their livelihood was intertwined with those from the dominant caste village, and they provided several services to the main village—including menial labour, washing, cleaning and sanitation—they were prohibited from any social engagement. Depending on the availability of space, they had to live on the periphery of the village or in a separate habitation. Caste-based residential segregation leads to the exclusion of public goods such as health facilities and, especially, water access (Keskin, 2010). If they had to share a source of water, they were made to wait till all the dominant caste persons drew water and only then were they allowed access. In certain cases, water is rationed and poured into their vessels so that they would not touch/pollute the water source.

This segregation and ritual impurity ascribed to them resulted in even greater attribution of impurity and pollution on them, and their habitations. In cities, and when modern infrastructure came to the villages, this segregation was consolidated. Infrastructure development, though limited in extent, was either

21. 'Broad' because of pervasive misclassification. Some communities that suffer(ed.) from untouchability are misclassified as scheduled tribes, most backward classes or even other backward classes, apart from those classified as 'other' or 'general'.

denied to the Dalits, or was controlled by the dominant caste, and further disadvantaged them. For instance, primary schools in villages would invariably be in the dominant caste area. The cleaning would be the responsibility of the Dalits—yet Dalit children would be denied entry. In a stunning indicator of the denial of infrastructure and services in urbanisation, child mortality actually increased for Dalit children in urban areas between National Family Health Survey (NFHS)-2 and NFHS–3, i.e. in the seven years between 1998-99 and 2005-06 (Das et.al, 2010).

The infrastructure and services provided to them is, by design, often of distinctly lower quality and quantity than that provided to others. Most government social welfare schemes for them are designed to fail, keeping them at non–dead levels, in total dependence and subservience, rather than providing them an opportunity to escape the web of poverty and discrimination. Consequently, compared to other sections of the Indian population, Dalits have lower indices in life expectancy, literacy, and other indicators of human development.

**Table 3.1: Indicators of development of the Dalits**

| S. No. | Indicator[22] | Scheduled Caste (%) | Other (%) |
|---|---|---|---|
| 1 | Under 5 Stunting | 54 | 41 |
| 2 | Under 5 Wasting | 21 | 16 |
| 3 | Under 5 Underweight | 48 | 34 |
| 4 | Under 5 Mortality | 87 | 60 |
| 5 | Child mortality | 24 | 09 |

*Source: NFHS -3*

Most of this can be overcome with a few basic attitudinal changes in larger society and a few simple services for the Dalits. For instance, millions of Dalit children under the age of five would be saved by providing access to easily available water—water that is available to others, but denied to them. These easily preventable deaths are directly attributable to the continuing caste-based discrimination that is widely practiced all over India.

Personal cleanliness and expecting Dalits to clean up after them is an attitude that extends to the neighbourhood too, where waste is externalised just outside the notional personal boundary. In an extreme form of irony, cleanliness of one's immediate surroundings and personal space is matched by spitting 'outside' in all public places and moving garbage out of personal space and into the commons. Public defecation of animals, pets or cattle is, literally, holy cow as also the expectation that someone else will clean up.

## Access to Water

Water has been a medium of exclusion and segregation of Dalits. Water is believed to be an agent that spreads pollution upon contact with a person who is in a 'state of pollution'. Therefore, in many regions of India, the dominant caste households insist on maintaining distinct water sources from the Dalit households in their villages. A combination of segregation and caste norms determine the distribution of access rights to each water source (Keskin, 2010).

22. According to UNICEF, underweight is defined as low weight to age due to malnutrition. Wasting (low weight to height) is a result of acute food shortage and/ or disease. Stunting (low height for age) is caused due to long-term insufficient nutrient intake.

According to the Census of India 2011, only 41.2% of SC households enjoys tap water from a treated source, and 2.9% draw water from rivers, canals, ponds, lakes or 'other sources' (not taps, hand pumps, wells, tube wells or boreholes). The vast majority of Dalits depend on the goodwill of the dominant castes for access to water from public wells. Dalit women stand in separate queues to fetch water, waiting till the non–Dalits finish fetching water.

## Access to Sanitation

India has consistently had poor sanitation facilities. Even so, the gap in these facilities between Dalits and non–Dalits is unmistakeable, and there is clearly a pattern of caste-based discrimination. The following figures illustrate the differences between Dalit and non–Dalit households with respect to sanitation. Only 23.7% of Dalit households have access to latrines compared to 42.3% for other households. With regard to household connectivity for wastewater outlets, it is 50.6% for general households and 42.9% for SC households (NACDOR, 2007).

**Table 3.2: Status of the Household Living Conditions of Scheduled castes**

| Amenities | SC (% of households) | Total |
|---|---|---|
| Access to latrines | 23.7 | 42.3 |
| Latrine facility within the premises | 33.8 | 46.9 |
| Connected to drainage | 46.6 | 51.1 |
| Connectivity for wastewater outlets | 42.9 | 50.6 |

*Source: Census of India 2011*

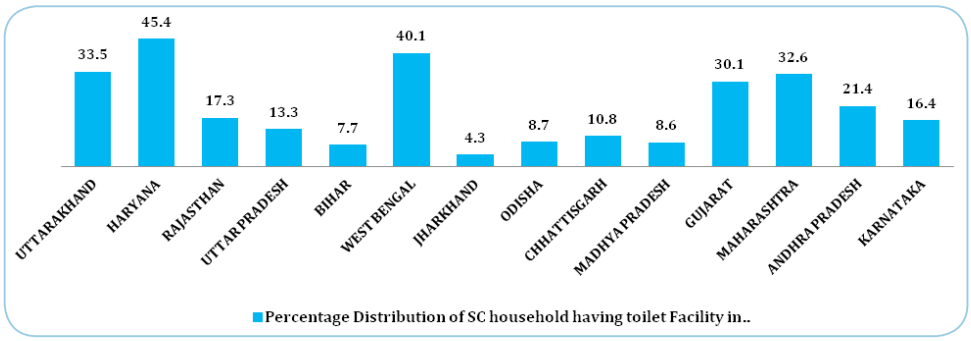
In 2011, 66.2% of SC households continued to lack toilet facilities and resorted to open defecation, and only 33.8% of SC households had toilets within their homes. It is worse in rural areas. As per the Census of India 2011, only 23.7% of the SC households have access to toilets as compared to 42.3% for general households in the rural areas. So the total access to toilets is 57.5% for SCs compared to the national average of 87.2%—a 30% difference. Thus, it is no surprise that a large number of rural SC population defecate in open areas.

### Availability of Toilets

Availability of a toilet within the household is one of the major indicators of development. The Census of India 2011 found 53% of Indian households lack toilets compared to 66% for SC households. 76.3% of Dalit households in rural areas do not have any latrine facility. The figure is particularly ironic, since most manual scavenging and a substantial part of all sanitation work in this country is done by Dalit women. About 51% of the unrecognised slums and 17% of the recognised slums are entirely without latrines.

Figure 3.1 shows the state–wise breakup of the availability of latrine facilities among the SCs in India as per the 2011 Census. It highlights the states where the availability of toilets is less than 50%. The situation is bleak in the following states: Jharkhand, Bihar, Madhya Pradesh, Odisha, Chhattisgarh, Uttar Pradesh, and Rajasthan, where more than 80% of Dalits do not have any toilet facility.

Figure 3.1: State–Wise Percentage of Households Having Latrine Facility




*Source: Census of India 2011*

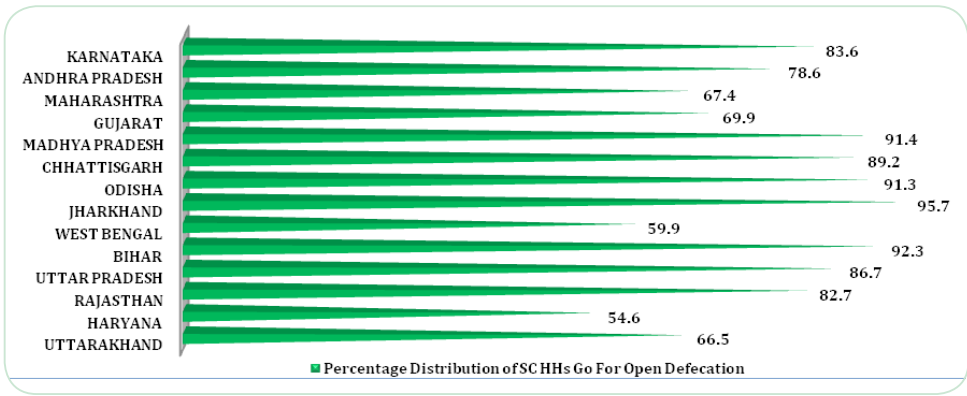
Latrines connected to a piped sewer system are not very common in SC households. Only 6.7% of Dalits have this modern facility. The Census of India 2011 shows that 1.1% of the general population use dry latrines. These latrines need manual scavengers. The manual scavengers are invariably Dalit women.

## Toilets as a Tool of Oppression

### *Absence as Oppression: The Daily Walk of Fear and Shame*

Figure: 3.2 shows percentage distribution of open defecation in 14 states with significant SC population. Karnataka, Madhya Pradesh, Chhattisgarh, Odisha, Jharkhand, Bihar, Uttar Pradesh and Rajasthan witness more than 80% of SC households going for open defecation as they do not have toilet facility.

**Figure:3.2 Percentage of Open Defecation in the States with Significant SC Population**




*Source: Census of India 2011*

The situation of Dalits is multi–dimensional with regard to access to sanitation. Access to sanitation—water and proper toilets with adequate infrastructure for management, disposal or recycling—ensures better heath and protection from a number of illnesses. It has an important social dimension directly related to the dignity and security of the individual, more so when Dalits are concerned.

Dalits have been traditionally marginalised and denied ownership of productive assets, particularly land. Due to lack of land, a vast majority of Dalits are forced to defecate in open spaces and on the land owned by dominant castes, forest

land, road sides, railway tracks, riverbanks or pond embankments. Open defecation, by the roadside or beside railway tracks often results in accidents. Open spaces have been shrinking due to encroachment and privatisation of the village commons by the dominant communities, the state, corporations and other interests who restrict access through various means. Dominant castes ban the entry of Dalits into 'their' land for defecation. Open defecation, whether on the land owned by the dominant castes or on the commons, has led to conflict and atrocities inflicted on Dalit men and women. Being socio-economically suppressed, they can hardly raise their voice against violation of their rights.

### Presence of Toilets as a Tool of Oppression

Ironically, the presence of toilets can also be a tool of oppression and exclusion. It is seen mostly in schools, where only Dalit students, specifically the elder Dalit girls, are made to clean the toilets. Though this is an extension of the caste-polluted minds of the school authorities and social norms as a whole, there is reason to believe that there are other active considerations at play.

Girls from other communities are not allotted this task. Allotment of these stigmatised tasks to adolescent Dalit girls is a public humiliation and a very visible means of 'showing them their place' especially if they happen to excel in academics. Once 'put in their place' at this sensitive age, school becomes anathema to them. The demoralised girls often drop out, with multi–generational costs to their families and the entire Dalit community. For this reason, Dalits oppose toilets in schools if they do not have a proper maintenance system.

## Open Defecation – A Curse for Dalit Women

Those without toilets are forced to defecate on any available land nearby. Dalit women become soft targets for harassment and sexual assaults by the dominant caste men. Without a toilet they have to wait for a suitable time (often when it is dark before dawn or at night) or postpone defecation, which adversely affects their health in the long run. It is unsafe for women to go out at night. In this context, having toilets within the compound becomes a matter of dignity, safety and security for Dalit women.

The National Confederation of Dalit Organisations (NACDOR) report presents a plethora of case studies where women were victimised, sexually harassed, raped and molested by dominant caste men, especially during open defecation. Thus, from a vulnerability mapping and analysis of the situation, open defecation is one of the significant reasons for crimes against Dalit women. The case of Janki below is representative.

In September 2012, Janki (name changed) 42, came to see her daughter in Bibiyapur village of Kanpur district, UP. Since there was no toilet at home, Janki went for open defecation at around 6 pm. On the way back home, she was attacked by two drunken men belonging to the Yadav caste. Dragging her to an isolated place, they raped her and absconded.

After the incident Janki, along with her family members, went to the police station to lodge an FIR. Instead of helping them lodge the FIR, the police insisted that they come back the next morning.

When they returned the next morning, they were surprised to see the culprits already in the police station. Taking the side of the culprits, the police accused Janki and her son–in–law Krishan of levelling false charges against the duo and finally refused to file an FIR

## Manual Scavenging

The government, in line with social norms, has reduced 'sanitation' to a scheme for building toilets. But who will clean and maintain the toilets, and how? It is implicitly assumed that Dalit women will be manual scavengers. It is also assumed that they can be continuously exploited and their human rights denied in the process. These assumptions are built into the very systems design of 'sanitation'. Those at the highest levels of government sanctify these regressive positions by terming manual scavenging a 'spiritual experience'. Contrary to popular perception, few Dalits—least of all the Dalit women who are forced into it—accept manual scavenging as a 'spiritual experience'.

According to the Supreme Court of India[23], 'Manual Scavenging' refers to "the inhuman practice of manually removing night soil which involves removal of human excrements from dry toilets with bare hands, brooms or metal scrappers; carrying excrements and baskets to dumping sites for disposal", a practice that is still prevalent in many parts of the country. Official statistics issued by the Ministry of Social Justice and Empowerment for the year 2002–2003 puts the figure of identified manual scavengers at 676,009. Of these, over 95% are Dalits (persons belonging to the scheduled castes), who are compelled to undertake this denigrating task under the garb of 'traditional occupation'. The manual scavengers are considered as untouchables by other mainstream castes and are thrown into a vortex of severe social and economic exploitation. The sub–Committee of the Task Force constituted by the Planning Commission in 1989 estimated that there were 7.2 million dry latrines in the country. These dry latrines have not only continued to exist till date in several States but have increased in number to 9.6 million and are still being cleaned manually by scavengers belonging to the SCs. The excreta is piled into baskets which scavengers carry on their heads to locations sometimes several kilometres from the latrines (National Human Rights Commission, 2011). The cleaning and disposal, including entry into closed sewage lines and septic tanks, is done without any protective gear  leading to the attendant health consequences and stigma.

After the 1993 Act was passed, the *Safai Karmachari Andolan* (SKA) had to physically demolish 'dry latrines'—those that needed manual scavengers—even in a district court, since the court authorities, like the rest of society, were in

23. Supreme Court of India, 27 March 2014. Writ Petition (Civil) No. 583 OF 2003. Available at, http://supremecourtofindia.nic.in/outtoday/wc583.pdf (Last accessed 15 March, 2015)

denial. Until photographic evidence was provided, and sometimes even then—such as the Government of Gujarat response to the PIL in 1996 that accused NGOs of paying people to pose for the photographs—governments denied the existence of manual scavenging. Despite clear orders from the Supreme Court of India, the practice has increased and is still widespread. Over 1% of all households, in both urban and rural areas, rely on this practice even today. The exact number of people in manual scavenging is disputed, with government estimates significantly lower than those of civil society groups. Hopefully, the Supreme Court judgement cited above should put to rest at least the question of prevalence, which many state governments denied. What is not in dispute now is that the practice is prevalent, it has deleterious effects, multigenerational costs, and it must be eradicated.

Considering the gravity of the issue, and the vicious intersection of caste, class and gender, it is imperative that a multi–pronged approach that intervenes at multiple levels is adopted. It needs integrated strategies that target voicelessness and promote women's involvement. Strategies should enable them to question and challenge discriminatory norms, take action to liberate themselves from slavery and reclaim their rights and dignity.

## Dalits and National Flagship Programmes

Fulfilling the right to sanitation of Dalits depends largely on the state, both for economic support (so that sanitation facilities are built for the Dalits) and the larger societal attitudinal change (to eradicate manual scavenging and permit Dalit access to water and sanitation). Among the greatest obstacles is the lack of sensitivity and political will of the state agencies, in designing and implementing the programmes and schemes towards liberation of manual scavengers.

The government 'rehabilitation' schemes are designed to fail and are a cruel joke on this hapless section. The figures for the 'rehabilitation' of manual scavengers are farcical. These schemes have insufficient investment and will not suffice to enable those engaged in manual scavenging to escape the web of poverty and discrimination. Not surprisingly, with no alternate livelihood option, many in the profession want to keep to manual scavenging and reject this tokenism of the government. Of course, many 'beneficiaries' don't use the poorly designed toilets either, putting them to more appropriate uses where possible.

### Total Sanitation Campaign, Nirmal Bharat Abhiyan

A national flagship programme on sanitation called the 'Total Sanitation Campaign' (TSC) was launched in 1999. But, its results are far from encouraging. The initiative failed to translate into practice as it was government–led, infrastructure–centred, supply driven and subsidy–based. The results of Census of India, 2011 have seriously undermined the claims made by the government regarding the success of TSC in improving access to toilet facilities in the country. Though the Government of India claimed that rural coverage had reached 53%, census data showed that real coverage was only 31%. There is evidence of poor quality of toilets constructed under the scheme, thereby making them unusable (The Hindu, 2012). Despite the then Rural Development Minister of India,

Mr. Jairam Ramesh, acknowledging that the 'Total Sanitation Campaign has been a failure' (Tribune, 2011), no effort was made to investigate why it had failed. Instead, a 'new' campaign was launched in 2012 with a new name '*Nirmal Bharat Abhiyan'* (NBA).

Though NBA is a more demand–driven and people–centred sanitation programme, it still ignores the key hurdles that hampered the implementation of TSC. One example is that when the government built community toilets under TSC, they employed Dalits as manual scavengers, since there was no other maintenance system planned. TSC–NBA can thus be said to be a poorly designed scheme, designed to fail in its ostensible purpose but which, instead, was widely successful in its thinly disguised objective of patronage: to keep contractors and other middlemen happy. The hundreds of thousands of 'missing' toilets and millions more built with material of poor quality and shoddy workmanship are testimony to the above assertion.

### National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents

The 'objective' of the National Scheme is to provide financial assistance to scavengers for training and rehabilitation in alternate, dignified occupations. This scheme has been in operation since 1991–92 and provides money for both training and rehabilitation. For training, a stipend up to Rs. 500 per trainee per month for up to six months is provided. A training fee, of up to Rs. 300 per month per trainee, besides honorarium to craftsmen of up to Rs. 100 per month is also provided. There is a provision of payment for a one–time tool kit of Rs. 2000. Rehabilitation of scavengers is attempted through sanction of projects costing up to Rs. 50,000 for each beneficiary comprising 50% subsidy subject to a ceiling of Rs. 10,000 per project, 15% of project cost as margin money loan (MML) and the rest through bank loan/National Safai Karamchari Finance Development Corporation (NSKFDC) loan. No funds were provided for the Annual Plan 2005–06 and 2006–07'[24].

India has successfully abolished manual scavenging several times, perhaps because the Government of India and the Public Sector continue to be the single largest employer of manual scavengers. Though the ministry claims to have assisted 443,925 scavengers for rehabilitation up to 2003–04, (ibid) the 'highly successful' Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act 1993 was followed by The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013. Though the revised Act has been passed in 2013 and the Supreme Court of India has passed directions for time bound enforcement, implementation has been tardy and rehabilitation a farce. At the present pace, eradication will take several generations, with all the attendant incentives of the 'generous stipends' and the highly valuable skills earned in six months at the cost of Rs. 1,800 for 'rehabilitation' with a stipend of Rs. 500 per month for six months (a total of Rs. 3,000). The absurdity of the allocation can be understood by a simple comparison: the government spends about *100 times* as much in just the *transfer* of one administrative services officer!

24. National Scheme of Liberation and Rehabilitation of Scavengers and their Dependents, Government of India. Available at, http://mhupa.gov.in/programs/upa/nsdp/NSLRS.htm (Last accessed 15 March 2015)

## The Challenge and the Opportunity

The adoption of the 'Swachh Bharat Mission' by the new government in 2014 brings with it additional challenges. The government approach seems to be more geared towards toiletisation and results in reductionist schemes by the time it leaves the discussion rooms towards implementation. It suffers from lack of convergence due to bureaucratic stand-offs, and therefore is not in touch with government policies. For instance government-scheme built toilets are seldom compliant with the legal requirement of access to all public infrastructure for people with disabilities, or the provisions of the Prevention of Manual Scavenging Act 2013, resulting in the implicit design requirement of manual scavenging for operations and maintenance!

The Swachh Bharat Mission should be made more people-centric, guided by the specific needs of the invisible, marginalised and excluded communities: i.e. bring to the forefront the differing requirements of specific sections, the varying geographic needs and those at different stages of the human lifecycle. Customised designs and appropriate budget allocations are required at the outset to ensure universal access with scientific management, human rights and dignity to the users and service providers.

In this context, *sanitation in its totality,* as a human right assumes importance, ending the biotic, carbon, oxygen, air, water, energy, use and disposal cycles with people, (especially the socially excluded), and start with dignity at the centre. The need for manual scavenging should be eradicated right at the design stage else it will, at best, be replacement of one set of workers by another. The right includes the right to not have the environment polluted, made unsanitary or unhealthy. The polluter cities and communities must dispose off their waste and not dump them on hapless rural areas and weaker communities, ensure universal access to sanitation infrastructure and services, and the dignity of those employed in providing sanitation services. These need to be integrated into programme designs and monitored at every stage of implementation rather than lament their absence post implementation.

The present focus on sanitation—albeit in a truncated 'toiletisation' form that is contractor-centric—has made public discussion of this hitherto taboo topic possible. It provides an opportunity to enlarge the discourse, putting the human being and human wellbeing at its centre. It provides an opportunity to debunk taboos, and tackle head–on the regressive ideologies that consider as 'ritually polluted', all women some of the time, some people all of the time, and half of all people all of the time. The solution thus lies more in the religious and cultural domains than in the realm of brick and mortar. It is a formidable challenge around which there are no shortcuts if the goal is to be attained.

## Recommendations on the Right to Sanitation for Dalits

Ending the sanitation crisis is one of the most important development challenges in India, and it will only increase with the increasing population, increasing urbanisation and increasing consumption. This calls for a comprehensive, sustained and multi–faceted approach that is result based. The social, cultural

and religious stigma attached to sanitation, and the ritual impurity ascribed to communities fulfilling this critical task, prevents the crisis from being addressed frontally.

The Indian state has the legal and moral responsibility to ensure the translation of this international commitment into a justiciable domestic law that can overcome the religious and cultural barriers that are embedded in a caste based social order. The right to sanitation must be embedded in the Constitution of India as a legally enforceable right for all people of India, with the right to a remedy (legal and otherwise).

In addition, the state has the responsibility to create the physical and social infrastructure necessary for actualising this right with adequate budget provisions, establishing necessary regulations. It should create a working, participatory and democratic monitoring and grievance redress system in case of non–compliance of the provisions under this right. Most importantly, it needs to act against those officials within whose jurisdiction the right is violated. It would have a role in creating awareness among people about the ill–effects of open defecation and the lack of both personal and public hygiene (including proper management of solid and liquid wastes) and incentivising behavioural changes without criminalising or publicly shaming failure (e.g. open defecation).

Communities must be responsible to bring about behavioural changes that are in tune with the content of Right to Sanitation and be involved in the participatory management and monitoring of the facilities created. With a decentralised system of governance in place in India (Panchayati Raj), it is absolutely essential that people proactively participate.

The tasks before the Government of India in sanitation are to (a) recognise the right (b) fulfil the right and (c) eradicate manual scavenging.

**Legal**

- *Recognise* water and sanitation as a basic right, and initiate a process for such formal constitutional and legislative recognition.
- *Fulfil* the national and international commitments made for creating adequate infrastructure to ensure water and sanitation for all at all times with time bound execution and implementation.
- *Promote* the fulfilment of these rights in a manner consistent with constitutional and international human rights obligations, specifically those related to caste based discrimination, to bridge the service gap in terms of areas and specific communities.
- *Revise* existing sanitation related laws, regulations, policies and operating procedures to ensure that they refrain from discrimination.
- *Revise* legislation and policies for recognition and implementation of the right to sanitation for Dalits.

**Fulfil the right**

- *Ensure* the process is sensitive to the specific needs of different sections of society and their life cycles through inclusive and sensitive design, availability of required water and personal hygiene including menstrual health management (MHM), feasible technologies, gender, age and cross–disability friendly.
- *Ensure* that the overall national sanitation framework is Dalit–sensitive and avoids the twin curses of absence and presence.
- *Prioritise* sanitation services within budgeting and political processes. Step up allocations for sanitation by adopting lifecycle costing.
- *Allocate,* without any delay, at least 1% of the national budget for achieving universal sanitation and hygiene and develop specific reporting mechanisms including budget lines, to track the spending. Sufficient funds must be allotted by the Government of India, all states and union territories, so that sanitation facilities are made accessible, especially to the poor and socially excluded. These allocations must be optimally utilised for sustainable sanitation services by monitoring the resources allocated and released, and by the actual change on the ground.
- *Build equitable systems and infrastructure* so that waste management is not an externality to the waste producing community, but processed and recycled within the user boundaries, and at no time pollutes the health and hygiene ecosystems of the weaker sections of society. The right to a hygienic environment where the waste of the others does not come into, or is disposed off in, their neighbourhood should be protected.
- *Ensure appropriate infrastructure* and resources so that all human beings at all times have access to sanitation facilities, which would include making available interim facilities for people living within the geographical boundaries of the country including those in relief camps, migratory workers, communities in conflicts and other such unsettled groups, irrespective of their citizenship.
- *Ensure that the facilities/infrastructure created* are in accordance with geographical and environmental conditions, even as they are sensitive to the specific needs of different sections of Indian society and their life cycles which would specifically include ensuring of designs that are inclusive for women and men, old and young and those with varying forms of disability, even as it ensures the availability of the necessary water for personal hygiene and menstrual health management (MHM).
- *Develop a participatory multi–stakeholder monitoring mechanism* for annual reporting on clear indicators for poor, marginalised and excluded groups, with equity as a criteria, increasing community participation in planning and implementation and improving transparency and accountability.
- *Encouraging community toilet facility* within the village, mainly in Dalit areas, as it may not be feasible initially to have every household with toilet and water.
- *Introduce toilet designs* with features that could be accessible for Persons With Disabilities (PWDs) under Nirmal Bharat Abhiyan.
- *Earmark funds for hygiene education* in school curricula.
- *Build* separate sanitation facilities for boys and girls.

- *Promote awareness regarding health and hygiene* through Self Help Groups (SHGs), Dalit women's groups, schools and health clinics to ensure health and environmental safety.

### Eradicate manual scavenging

- *Implement* with immediate effect, in letter and spirit, The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 and devise a separate mechanism with community participation to oversee the implementation of the Act.
- *Ensure* that no human being is manually involved in cleaning human excreta, which specifically includes the strict enforcement of the Manual Scavenging Act 2013.
- *Address the human cost* programmatically such that the stigma attached to those working in providing services in the sector is removed. *Take strict action against officials* in case of failure, including those in the Indian Railways, government departments and enterprises, under whose jurisdiction this practice still continues.
- *Ensure the dignity, rights and facilities* for sewer/sanitation workers at all levels. Mechanise sanitation work.
- *Ensure that the disposal and management of human waste* is in strict conformity with the principles of protecting human rights, health and environmental sustainability.
- *Rehabilitate those in manual scavenging* at levels that will ensure that they are not forced back due to lack of livelihood options due to stigma or resource constraints.

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# Adivasis and Right to Sanitation

4

*Samar Bosu Mullick*

## Introduction

Adivasis or the indigenous peoples of India are largely categorised as scheduled tribes (STs) according to the constitution of the country. Some of them are also clubbed with the scheduled castes (SCs). Some Adivasis are not classified for certain constitutional provisions, like the tea garden labourers of Assam. The Scheduled Tribes alone constitute more than 8% of the total population of the country.

The situation of Adivasis is not homogeneous across the country. Adivasis are found in urban, low land rural and upland sylvan regions. The ancestral homes of the majority of Adivasis are located in the forested upland areas. This paper deals largely with this section of the Adivasis of the country.

Adivasis are amazingly clean people. Even a cursory look at their hutments suggests the same. Their meticulously built mud houses are kept scrupulously clean. Sweeping and swabbing the floor with cow dung is one of the important daily chores of the women of the household. Younger women and unmarried girls are entrusted with the job of maintaining the plaster of the walls and painting them with designs. The courtyard is also kept clean in this manner. Nineteenth century anthropologists were highly impressed by the Adivasi sense of hygiene. Anointing the body with mustard, neem and karanj oil regularly, before or after bathing, wearing scanty but clean clothes, and combing hair with a bamboo or soft wood comb are some traditional practices followed by Adivasi men and women. “What we eat is our medicine”, is a common saying among Adivasis. Tribal health care systems are well recorded. With the expansion of the market in Adivasi habitats and the consequent introduction of machine-made commodities, some behavioral changes have occurred over the years. However, their fundamental beliefs and practices have not changed radically.

Adivasis do not consider open defecation to be unhygienic. Rather, having a toilet next to the bedroom or even attached to the house is highly despised by them. Having a toilet within the house is considered to pollute the living space. They believe that only animals defecate where they sleep; human beings don’t. This is an ancient notion. But what about modern toilets? That too does not go well with the practices and beliefs of the people. According to them, if a toilet is used, the excreta accumulates in a pit or tank near the house, which is undesirable. They believe that human excreta should be discharged as far away from human habitation as possible.

This belief has its roots in the prehistory of the people. Sedentary life preceded by the Neolithic revolution[25] taught a few important lessons to the early swidden (Jhum or shifting) cultivators. One of them was the new practice of sanitation and defecation. Communities learnt it at the heavy cost of human lives. During the

25. This is further explained under “Endnote” towards the end of the paper

early period of sedentary life, when communities began to live with domesticated animals, many new diseases transmitted from animals to human beings. Initial ignorance led to frequent epidemics. The discovery of the antibiotic and antiseptic attributes of cow dung and many other plants, and the knowledge that defecating far from human settlements and sources of water is effective, changed the early practices of sanitation of the Paleolithic people when the community was mostly on the move. The foraging and settled swidden agriculturist communities developed a system of sanitation over a long period of their living in close contact with nature which they found most healthy in their given objective situations.

The Iron Age and the settlement patterns which followed brought a section of the early Neolithic people out of the forests, and peasant society emerged with densely populated villages. However, some of the Adivasis remained scattered in the forests. They either settled in small hamlets as swidden agriculturists, or continued to roam the forests as hunter-gatherers. There is no reason to believe that these people remained unchanged. Over the years, these societies which clung to Neolithic traditions are disintegrating, albeit slowly. The present day Adivasis are found to be divided into two categories, the settled agriculturists and the Particularly Vulnerable Tribal Groups. The majority of Adivasis belong to the former category, residing in villages of very small size, each comprising many scattered sparsely populated hamlets within the forested regions. A section of them have also been exposed to modern agricultural tools and inputs, in terms of seeds and pesticides. The latter are much smaller groups with no modern day agricultural skills, but possessing immense knowledge of foraging in the forest.

One important common feature of both the groups of Adivasis has been their disapproval of adapting the practice of using modern toilets as suggested by the state apparatus.

## Sanitation Related Customs and Practices

Traditionally, Adivasis prefer to defecate in the open, away from their homes in the forest. They consider it hygienic because the forest ecosystem keeps the place of defecation clean by causing the faeces to degenerate. Adivasis generally practice ‘washing’ except for one or two small communities in the North Eastern states reported to be practicing ‘wiping’. Among the foraging communities, ‘wiping’ is partially in practice, especially among the elderly people. Since the forest is a natural source of water, scarcity of water is not the cause of the practice of ‘wiping’. This practice is a cultural continuation of the Paleolithic habit. However, the unavailability of water near the place of defecation often causes ‘wiping’ in exceptional situation. In most of the forested villages, there are streams and rivulets. Traditionally, ponds and wells are also dug in both forested and non-forested settled villages. These days, tube wells are also found in some of them. Thus, washing is not a problem for the villagers. In both cases, i.e. ‘washing’ and ‘wiping’, Adivasis are bound by their social customs which are considered to be proper and healthy. There are strict rules of social behaviour that enjoy the sanction of the community and are not supposed to be changed. Normally the village council of elders punishes those who break these rules. In the case of sanitation too, there are certain taboos for both men and women that protect the dignity of women.

### Rules of Open Defecation

The men and women of an Adivasi village do not defecate in the same place, nor do they use the same water body for washing after defecation. This is possible because of the presence of forest cover and the availability of more than one source of water. Women are therefore, not forced to go to defecate very early in the morning, as is found very often in the case of the peasant societies of the plains. In most cases, women use the wells near the household for washing after defecating in the forest. In some villages, women carry water in small pots or plastic bottles to the place of defecation in the forest. Men prefer to use locations near the river or the pond for defecation. Normally they wash themselves while taking a bath after defecation. Washing hands after defecation with *gera* soil or ash has been a traditional practice. Use of soap is a recent phenomenon among many of them.

Men normally go to the river, while women use the wells near homes for washing. In cases where both men and women use river water for the same purpose, two different areas on the riverbank are allocated for them. This applies to the use of pond as well.

### Rules of Menstrual Hygiene

Women wash in separate water bodies during their menstrual period. Cotton cloth is normally used. But among the foraging communities, certain soft and spongy leaves and barks are still in use. Used pads are normally buried. In some cases, they are reused after cleansing them in boiling water mixed with ash or detergent powder.

During the time of flowering and bearing of fruits and when the paddy is ripe, menstruating women do not enter the fruit orchards or paddy fields.

### Management of Source of Water for Sanitation

Tank and pond water that is used for washing after defecation is strictly not used for drinking. Water from the well is usually used by women for both washing and bathing. However, elderly, disabled and sick persons who cannot go a long way for washing in the river or pond often use well water for washing after defecation.

Sources of drinking water such as *dari* or *chuan*, small and clean natural water sources, and springs that flow from the cleavages of the rocks in the hills are usually not used for non-drinking purposes. These days in many villages where tube wells are in working condition, people use these as an optional source of drinking water. However, the use of water resources varies according to the local situation.

## Issues Regarding Modern Toilets

The modern latrine appears to be incompatible with the Adivasi sense of cleanliness. The immediate reason modern latrines have been abandoned by Adivasis is their defective construction. Local masons are not trained properly. The construction agencies are more interested in making money rather than performing the job efficiently. The badly constructed latrine cannot comfortably accommodate an adult person, the lack of ventilation makes the air inside the

latrine foul, and the leaking leach pit pollutes the surroundings! The monitoring authorities believe in volume and not in quality. Inefficiency coupled with corruption results in defunct and missing toilets. Besides, both leach pit and septic toilets need a supply of sufficient water at their installation site. In Adivasi villages, water scarcity is not the cause of the toilets becoming defunct. The problem lies in the portability of the available water to any desired site. Houses are normally built on high ground whereas water is available at a lower level. The way toilets have been introduced to the Adivasis cannot but invite despise.

However, the issue is not limited to badly constructed toilets, lack of water, and the economic inability of the people to construct toilets. The avoidance of using modern toilets is embedded in the cultural belief of the people, and the modern toilet is not attractive enough to change this belief.

Here are some relevant points from a 2011 report by the Ministry of Drinking Water and Sanitation: “change in habit is a matter of belief” (p. 146), “traditional beliefs and practices that might prevent families from adopting toilets” (p.150), and “water and sanitation is more about changing of mindsets of people” (p.199).

### Sanitation for the Adivasis

Adivasis are usually looked down upon by the dominant society as ‘dirty people’. For the urban elite, open defecation has always been considered a sign of barbarism or primitiveness. Even the rural peasant communities are also called uncivilised or under civilised on the grounds that they practise open defecation. Served latrines were the landmark of civilisation in the past, despite the fact that they degraded a section of humanity to the level of utter indignity and promoted untouchability. And presently, having the modern toilet facility is an indicator of progress and development. The human culture of sanitation has travelled a long way from the open defecation in the forest to the use of the latest Japanese computerised bidet toilets along the ladder of civilisation. Historically, civilisations mature along the path of growth and the expansion of urbanisation. Toilets being natural demands following urbanisation, are an indicator of civilisation. In this regard, India is far from being considered a civilised country. In India, it is only the urban affluent society that is considered civilised, while the rest of the people are considered uncivilised. Adivasis are considered to be even more uncivilised than their peasant neighbours on account of their closeness to nature!

The governmental policies of sanitation are based on this myopic view of civilisation and development. The planners fail to distinguish between urban, rural and sylvan (forest) needs of sanitation, and therefore their universally designed and target driven projects have not worked over the years. Especially in the Adivasi habitats (sylvan), all the projects and *abhiyan*s have so far made a big hole in the state coffer without an iota of success.

Table 4.1 provides data on the percentage of households having latrine and bathing facility within premises published by the Ministry of Tribal Affaires is an indicator of this failure.

**Table: 4.1 Sanitation profile provided to scheduled tribes**

| | Total number of households | % of households having latrine facility within the premises | % of households not having latrine facility within the premises | % of households practising open defecation | % of households having bathing facility within the premises |
|---|---|---|---|---|---|
| **All Social Groups** | 246,692,667 | 46.9 | 53.1 | 49.8 | 42.0 |
| **Scheduled Tribes** | 23,329,105 | 22.6 | 77.4 | 74.7 | 17.3 |

*Source: Tribal profile at a glance, May 2013. Ministry of Tribal Affairs, GoI*

The Adivasis are found to be only one step above the lowest rung of social ladder, which is occupied by the Dalits, according to these findings. Since not having these facilities is considered a sign of backwardness and underdevelopment, the government has decided to provide latrines to all by the end of 2022.

However, the failure in providing latrine facilities to all is often covered up with false data. The Ministry of Drinking Water and Sanitation Report 2011 reveals facts that are contradictory to other surveys. It claims that "in terms of progress made during the 11th plan, the coverage of individual household latrines has progressively increased from approximately 39% in the beginning of the 11th plan to 73% as of August 2011. This tall claim loses its authenticity in the face of reports of the National Sample Survey Organization (NSSO). The organisation, in its 69th report of July–December 2012 on drinking water, sanitation, hygiene and housing conditions in India, has indicated that 59.4% and 8.8% households in rural India and urban India, respectively, had no latrine facilities. A recent 2013 report of the Ministry of Tribal Affairs mentions that the number of tribal households without latrine facilities within their household premises is 77.4%.

The sanitation situation in the central Indian scheduled tribe dominated states, such as Rajasthan, Madhya Pradesh, Chhattisgarh, Jharkhand and Orissa is even more deplorable than the North East Indian states such as Arunachal, Meghalaya, Manipur, Nagaland, Mizoram and Tripura. In the former, 85.1-92.9% ST households do not have toilets as compared to 17-45% in the latter, according to the census report of 2011. The Jharkhand Tribal Development Plan 2013 admits that "only 7.6% of rural households have toilets in their houses. The situation is even worse for SC (4.3%) and ST (3.7%) households. Only around 2% of the rural households have a closed drainage facility" (p. 10).

## Factors negating toilets

If the above data is compared to that of the 2001 census report, one can see that the situation is changing, and that the number of toilets have increased, albeit at a snail's pace. The reasons can either be the state's incapability to reach out to the Adivasis, or a lack of demand from the Adivasis. Two factors are generally identified by the planners as responsible for the rejection of toilets by the Adivasis. One, the Adivasis are not adequately aware of the benefits of and the need for toilets. And two, the toilets are not properly built and water supply

is not adequate (Report of the Working Group on Rural Domestic Water and Sanitation, September 2011). The former is linked to the lack of education and knowledge of hygiene among other reasons, and the latter to the inefficiency of the implementing agencies.

A large section of Adivasis prefer open defecation in the forest at a distance from the household. They believe that open defecation in the forest is much more hygienic than the toilets built with leach pit technology. Most of the people feel that the toilet with a septic tank might be better but it is expensive and beyond their means. Secondly, toilets need a regular supply of water of considerable volume that is not usually available near the households. Some agree that toilets near the households would be useful for the old and sick people and pregnant women especially during the rainy season. The dominant aversion to toilet use is found to be largely based on the Adivasi sense of cleanliness.

### Changing Behaviour and Perception

The youth, especially educated, shows greater inclination towards toilet use. They consider that the changing habitat conditions require a change in defecation practices. Thinning and receding of forest cover required for privacy, sharp decrease in the availability of water and the emergence of compact villages owing to population growth are some of the reasons that are said to be the driving force for a slow behavioural change in Adivasis society.

There are some differing views by people who have been exposed to different situations. The objective conditions of the Adivasi villages that promote open defecation have been changing immensely owing to their exposure to mining, industries and urbanisation. In some places, the gradual expansion of agriculture which is denuding forests is also affecting the life of the people. The emerging conditions are bringing squalour to Adivasi life. It has been ruining the status of Adivasi women. Open defecation is not possible and toilets are not available! These villages badly need functional toilets more than their lucky brothers and sisters in the forests.

Thus, there are three kinds of situations prevailing in the forested Adivasi habitats of central India:

1. Habitats having sufficient forest cover and sources of water: Open defecation is preferred. They do not feel the need for toilets at the moment.
2. Habitats partially exposed: Open defecation is still preferred but the option for toilets is not rejected.
3. Habitats heavily exposed and largely devastated: Open defecation is practised under most unhygienic and debasing conditions and functional toilets and drinking water are urgently needed.

## Sanitation and Rights to Habitat

The right to sanitation and safe drinking water of Adivasis is closely linked to their right to habitat and resources. The United Nations Office of the High Commission for Human Rights in its Fact Sheet No. 35 on The Right to Water upholds this linkage. “Natural water sources traditionally used by indigenous

peoples, such as lakes or rivers, may no longer be accessible because of land expropriation or encroachment. Access might also be threatened by unlawful pollution or over-extraction. Furthermore, indigenous peoples' water sources might be diverted to provide safe drinking water to urban areas. Consequently, securing indigenous peoples' right to water might often require action to secure their rights to their ancestral lands, customary arrangements for managing water, as well as the protection of their natural resources" (p. 23).

Similarly the United Nations Declaration on the Rights of the Indigenous Peoples (UNDRIP) recognises the indigenous peoples' right to improve sanitation (Article 21), but not in isolation of their fundamental right to land, territory and resources (Article 8). It recognises the indigenous peoples' right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions (Article 23).

Adivasi habitats, especially in the central Indian states, have been exposed to large-scale mining, construction of big dams and reservoirs and industries. Large numbers of Adivasis are either being displaced, or their habitats are being encroached upon. This situation has caused the disruption of the traditional sanitation practices and water resources. The right to sanitation campaign for Adivasis needs to address this issue.

## Recommendations

### Changing the mindset of planners

The majority of the leaders, bureaucrats, social scientists, etc., from the dominant society have a strikingly common view of the Adivasis of the country. "Mainstream" society thinks of Adivasis as illiterate, ignorant and backward. It believes that Adivasi communities do not understand the importance of sanitation, and that the Adivasis are culturally dirty people. This view reveals the ignorance of mainstream society about the rich knowledge of sanitation that Adivasis have been transmitting from generations through their oral traditions. Their present low health status is not on account of a lack of knowledge about sanitation, but essentially due to the devastation of their traditional habitats and the ecosystem that provided the foundation of their traditional health care system.

Therefore, planning for helping them to have a better sanitation system under these changed circumstances should be based on their own health care and sanitation knowledge, and should improve upon relevant Adivasi knowledge instead of importing an alien system and imposing it on them. Planners should respond to the needs of the people rather than demand the fulfillment of targets, based largely on urban notions of sanitation.

One major shift of focus that may be suggested at the outset is from the 'toilet centric approach' to the overall sanitation of the people. The villages of the forest dwelling Adivasis do not suffer from the concentration of excreta in one place and its necessary disposal. The availability of a wide space of the forest takes care of this issue. Availability of safe drinking water, for instance, would be a more important issue than toilets.

### Community Based Approach to Sanitation

The identification of villages and communities who need toilets the most should be the first task undertaken by the concerned government department – the Department of Drinking Water and Sanitation. A community based solution to the sanitation problem of the identified village or hamlet can be found through decentralised decision making at the village or the hamlet level, ownership of the project by the village/hamlet level community, adoption of locally appropriate technology (leach pit or septic tank or perhaps ecological sanitation), and community managed finance and monitoring. The gender dimension of project planning, implementation and monitoring should be ensured at every stage of the project.

Moreover, the construction of toilets must be accompanied by an adequate supply of water. Rain water-harvesting, construction of check dams, dug wells and functional tube wells, and pipe water supply through the construction of over-head tanks should be a part of the toilet project.

In this context, one must remember that the Adivasis' right to sanitation is more loaded than that of the rest of the population of the country. It is a kind of compensatory resanitation. The Adivasis believe that since the state is responsible for the destruction of the Adivasi traditional sanitation system, it should shoulder the responsibility of providing an alternative one. Therefore, the cost of the sanitation projects in the Adivasi areas has to be fully borne by the state.

### Knowledge Dissemination at Village Level

There is a certain knowledge base regarding health care that needs to be brought to the notice of the Adivasi villagers, such that a confluence of traditional and modern knowledge can take place. Different studies of rural farming households have revealed a significant association between stunting and open defecation. Open defecation around the backyard contributes to poor nutritional status, which calls for addressing environmental sanitation and wearing of footwear especially by children. These correlations need to be explained to Adivasi communities, and the importance of maintaining a certain level of hygiene and clean environment needs to be included in the programmes on sanitation by the government. For instance, introduction of the use of footwear for children in order to avoid bacterial infection caused by open defecation has been proved to be an effective means where things cannot be changed overnight.

Better and sensitive information, education and communication material needs to be developed specifically for the Adivasis, and should be disseminated in their mother tongues.

### Political Will

The role of the Gram Sabha is clearly defined in the Provisions of the Panchayati Raj (Extension to Scheduled Areas) Act 1996 as well as in the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006. Unfortunately, none of the state governments so far have had the required political will to recognise the role of the Gram Sabha in meeting the welfare

needs and schemes of the village or hamlet. This has been a serious political deficiency that keeps the Adivasis at the level of 'beneficiaries' and prevents them from being 'right holders'. Sanitation is a right, not a benefit that the state is supposed to dole out to them. The political will of the state to ensure the 'rule of law' has to be rescued from the quagmire of centralisation of power and decentralised corruption.

### *Endnote*

***Neolithic revolution***

The term Neolithic Revolution was first coined in the 1920s by Vere Gordon Childe to describe the transition of human society from the food gathering stage of the Paleolithic economy to the food producing one of the Neolithic period. The discovery of agriculture triggered this change that was further strengthened by the domestication of animals later on. Agriculture prompted the early producers to settle down near the agricultural fields. The domesticated animals also started living with them. Evidence for the first beginnings of this process obtained from several regions is dated from approximately the 10$^{th}$ millennium BC to the 8$^{th}$ millennium BC.

***Area of coverage and methodology***

For this paper Primary information has been collected from the whole of central India and specifically from Jharkhand. Secondary information has been gathered mostly from online sources. In Jharkhand, three focus group discussions and few telephonic interviews have been conducted among the Santals, Mundas, Oraons, Hos and Kharia tribes.

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# 5 Sanitation Rights and Needs of Persons with Disabilities

*Anjlee Agarwal*

## Introduction

The golden promise of a life with dignity for everyone as a fundamental right cannot be fully realised without addressing the issues of water, sanitation and hygiene (WASH). Even today, with more than 620 million Indians defecating in the open, India has the largest number of people living without toilets in the world[26]. To exacerbate this problem, the remaining population is blind to the hazards of the practice of open defecation, and accepts it socially. In such a scenario, the plight of the marginalised sections of society, especially that of persons with disabilities (PwDs), remains grim and mostly unresolved with their access to WASH hindered by multi-layered socio-economic, physical, cultural and attitudinal factors.

Basic sanitation is a huge issue in India, which is further complicated by the lack of adequate facilities and services leading to unhealthy living conditions, serious health considerations and severe limitations on movement. The Indian government has been working on this issue. It raised its budget for sanitation by more than 135% in the past decade, which happens to be a progressively increasing budget. As a country, we have made tremendous progress in the provision and use of toilets in the last 20 years, reducing the practice of open defecation which was found in 75% of the population in 1990 to 51% of the population in 2010[27]. However, much work remains to be done, with visible shortcomings in the provision of accessible WASH facilities for persons with disabilities, the delivery system as well as the monitoring of the budget and implementation of schemes at the ground level.

## Protecting Persons with Disabilities and with Reduced Mobility

Some of the poorest and most marginalised people in the world are those with disabilities. Persons with disabilities comprising of both physical and sensory impairments and those with developmental disabilities such as Autism, Cerebral Palsy, Mental retardation and multiple disabilities face social hurdles in the form of prejudice, pity or stigma from other members of the community. In circumstances where toilets are not available for the general public, the needs of the PwD populace, which constitutes nearly 15% of the total population, continue to get sidelined[28]. Because they are frequently unable to negotiate obstacles in the natural or human-made environment, their social isolation can be mirrored by physical isolation. Access to improved sanitation is fundamental to ensuring the dignity, safety and equality of this group of people and to enhance their social inclusion.

Additionally, sanitation can also play an important role in reducing the risks of associated infections. It can greatly improve quality of life, and make home-based care for people living with severe disabilities and chronic illnesses, easier and more dignified.

26. Press Release, Poo 2 Loo, Campaign, UNICEF, 11 November 2013. www.poo2loo.com
27. India Fact sheet on Sanitation and Hygiene, R2S Campaign, June 2013
28. World Disability Report by World Bank and WHO, 2011

## The Equity Imperative

> "Addressing inequalities is not a choice -
> it's a necessity and this is an emergency."

We do not have time to wait for years to address the WASH needs of persons with disabilities, women and girls, because a focus on equity in WASH access saves more lives, is more cost-effective, spurs economic growth, and is an important means of 'getting to zero' in preventable deaths, malnutrition and denial of basic services.

The primary focus of the Sanitation Drive up to year 2015 is on ending open defecation. Open defecation, the most extreme manifestation of poor sanitation, is an immense problem. It is also a practice where inequalities between different social groups are starkly evident. The Sanitation Drive to 2015[29] urges governments to tackle this inequity by prioritising the needs of the poorest and most marginalised populations including those who are disabled, elderly or sick. It advocates increased political focus on sanitation, better targeting of funding, coordinated efforts based on proven successes, involvement of communities and individuals in decision making, and efforts to ensure that all people have access to information and services.

## International and National Commitments

India has made many commitments at the international level towards WASH implementation.

The section on UN Declaration on human rights to water and sanitation[30] which is signed by India explicitly mentions that, "A central principle for the realisation of rights to water and sanitation is non-discrimination. The rights to water and sanitation demand that discriminatory practices related to law or policies that distinguish between groups be eliminated immediately. The discriminatory practices still require urgent attention, including specific consideration of the situation of disadvantaged and marginalised individuals and groups within a society."

As mentioned by Louisa Gosling, Water Aid[31] "Commitments made by South Asian governments at the fifth South Asian Conference on Sanitation (SACOSAN-V) held in 2013 include the Kathmandu Declaration[32] signed by the Government of India 'to develop standards and monitor them and to develop and implement guidelines and standards suitable for child, adolescent, gender and disabled friendly WASH facilities, with compliance indicators on hand washing and menstrual hygiene education and practice." Honourable Shri Bharatsinh Solanki, Minister for Water and Sanitation from India, said, "From 386 million users of toilets in 2008, India now has about 621 million users, however, the growth is often offset by population growth."

In the 17th SAARC Summit, where political leaders agreed to work collectively to address water and sanitation challenges in the country, little has been realised for PwDs, as they have been forgotten to be included in the process yet again. As in all issues affecting the lives of PwDs, their needs for WASH cannot be made real for them without their active and effective participation in the process starting from the stages of policy and planning up to implementation and maintenance.

29. Take action for sanitation by kick-starting your own Sanitation Drive to 2015 campaign.
30. Access to Sanitation. http://www.un.org/waterforlifedecade/sanitation.shtml.
31. National Consultation on Post 2015 MDG, VSO and WaterAid, March 2014
32. Kathmandu Declaration, SACOSAN V, 2013.

Thus, the Indian government's commitment to deliver context-specific equitable and inclusive sanitation and hygiene programmes by identifying the poorest and most marginalised groups in rural and urban areas can only be achieved through people's participation. With reference to the rights of PwDs, their family members, care-givers and organisations and institutions working for them are equally significant stakeholders in attaining these needs and rights within equity and inclusion principles. However, the fight for sanitation does not end here, as more than 30% of WASH facilities fall back to the status of 'partially covered' or 'not covered' in less than three years after they are installed, thus making maintenance an equal challenge.

## Worrying Statistics

### Economics

- India loses approximately USD $53.8 billion (>6.4% of India's GDP, 2006) to increased health costs, productivity losses, and reduced tourism revenue due to inadequate sanitation and poor hygiene. This amount is two times India's investment in water and sanitation in the past twenty years.
- India spends less percentage of its GDP (0.2%) than Pakistan (0.4%), Bangladesh (0.4%) and Nepal (0.8%) on water and sanitation.
- According to a UNICEF report[33], the national Indian average of sanitation, hygiene and water safety is 34%. For the urban population it is 58% whereas for the people in the rural area it is a mere 23%. The situation is endorsed by the Joint Monitoring Programme report, which establishes the fact that at least 40% of people from the poorest background have barely benefited from sanitation facilities meant for them in the last decade. As per Census 2011 statistics[34], 73% of PwDs live in rural India and are therefore most affected due to the lack of accessible Individual House Hold Latrines (IHHL) and community toilets.
- The lack of toilet facilities also has crushing health and economic impacts on the otherwise robust growth of the nation. About 535,000 children under five years of age die each year due to diarrhoea and other infections caused by poor sanitation, lack of hygiene, and open defecation that contaminates drinking water.

Yet, in our fast developing country, the irony is that there are more people who own mobile phones than those who have access to toilets. According to the Indian Telecom Regulatory Authority, there are more than 929 million mobile phone subscribers in the country at present, which means 300 million more Indians have mobile phones than those who have access to a toilet.

### Rural - Urban Divide

Additionally, services for WASH suffer from disparities in the rural-urban divide, thus making the quality and availability of water the two big challenges for sustainability of WASH services in rural India. The hard hitting reality of this

33. www.unicef.org.
34. http://censusindia.gov.in/Census_Data_2001/India_at_glance/rural.aspx.

divide is that families in urban areas have toilet facilities adapted for use by children/ adults with disabilities inside their houses. However, since almost all families practice open defecation in rural and urban areas, adaptations and/ or reasonable accommodation for access needs of persons with disabilities are considered. Girls and women with disabilities in rural areas suffer the most, as their families take them into the fields before dawn and sometimes at midnight, thus causing stress and discomfort due to the unsafe environment.[35]

The situation is grim in Delhi. A large section of the population does not have access to safe sanitation, several toilets are non-functional, and the sludge management system and drainage is inadequate.[36] In Lutyens' Delhi, the New Delhi Municipal Council area, one of the richest civic agencies in the world, has provided some toilets for PwDs in the name of accessibility. However, gentle ramps and grab bars for western commode seats are missing, making these toilets unfriendly and unsafe for independent usage by PwDs. Even the public urinals by the Municipal Corporation of Delhi for men with disabilities lack ramps and ways to get around inside the building for mobility aid users such as wheelchair users. Chest support grab bars for bilateral crutch users are also missing.

### Girls and Women with Disabilities

A lack of access to WASH impacts girls from infancy through their life cycle.

- Lack of access to safe drinking water, sanitation and hygiene causes diarrheal diseases and other infections that can lead to under-nutrition, stunting and cognitive delays in infants and young children, compromising their ability to learn and potentially creating life-long health challenges.
- Goals to send girl children with disabilities to school can seriously fail owing to lack of access to WASH.
- Lack of WASH can prevent girls from attending school because they are too busy collecting water or caring for sick family members, and expose them to sexual and physical violence while walking in isolated areas or seeking private spots to urinate or defecate.
- Lack of education has an impact on the lives of girls and children with disabilities, including on their health, their freedom to plan their families, and ultimately on the cycle of poverty.
- Women, especially women with disabilities, being unable to defecate in the open after the sun is up, have to wait till sundown, especially in the rural areas where people do not have toilets at home. In such a scenario, menstrual hygiene management (MHM) is simply overlooked. On the health front, it leads to the development of bladder stones, and reproductive and urinary tract infections due to a lack of sanitation facilities, and the use of dirty and unsafe places for defecation. Even at night or early in the morning, these women choose the most isolated places to get away from the eyes of others, leaving them highly

35. Violence Against Women, Country report by CEDAW and UNCRPD by Samarthyam, June 2013.
36. Right to Sanitation Campaign, 2013.

vulnerable to molestation or even rape. News of rape and molestation of women and girls in the early hours of the day or late hours of the evening are reported frequently, especially from the rural areas where open defecation is common.

### Menstruation Hygiene Management

Safe private toilets also allow for menstrual hygiene management at school, which can go a long way in retaining adolescent girls who might otherwise drop out. This, in turn, reduces early marriage and early pregnancy, a risk factor for both maternal and new-born deaths.

Post puberty, girls and women menstruate on an average 3,000 days over a lifetime, or nearly 10 years of their lives. 200 million women have a poor understanding of menstrual hygiene and associated health care. According to a recent study, 355 million women and girls menstruate in India on a monthly basis, and a woman requires 7,000 sanitary pads on average to manage menstruation days before her menopause. Only 12 % of young girls and women have access to and use sanitary napkins. Moreover, there are no mechanisms available for safe disposal of sanitary napkins in households, schools, colleges and community toilets. In this condition, the plight of women with disabilities is compounded further.

## WASH in Schools

Poor sanitation in schools leads to a high drop-out rate as well as illnesses among school children. India has the largest number of school-going children, especially in rural areas, where India has over 766,000 primary and upper primary schools. However, despite the encouraging increase in toilet coverage in schools to 84%[37], most of these toilets remain inaccessible for children with disabilities (CwDs).

- Less than 1% CwDs gets admissions in schools[38]. There is no data available on the retention rate /drop-out rate of CwDs.
- Only 15% of schools have toilets for boys, wherein toilets for girls are missing and they are forced to use the Boy's toilets.[39] In many states it is a common practice to allow the girls to go in pair- 'jodi' to toilet where girls enter the Boy's toilets; one girl stands outside the toilet and signals the other girl who uses the toilet if anyone approaches the toilet. Hence they either rush or most of the times feel embarrassed in such situations.
- No emphasis is laid on separate toilets for girls in schools. There is no mention of the access needs of girls with disabilities[40].
- Operation and maintenance problems persist, leading to widespread open defecation among school children in rural areas.

37. India Fact Sheet on Sanitation and Hygiene, Right to Sanitation Campaign, 2013.
38. Status report of CwDs in RTE by Arth Astha, 2013.
39. Status Report on RTE by Arth Astha and UNICEF, 2014.
40. http://indiasanitationportal.org/1967

**BOX 5.1**

**No Toilets in Half of State Schools**

Hyderabad, Oct. 2013: More than half of the 80,000 government schools in the state have no toilets, and where they exist, they are in bad shape. In every fourth government high school, girls have to share toilets with boys. As a result of this neglect, girl students suffer from several avoidable health problems.

*Source: http://www.indiasanitationportal.org/1279*

## Socio-economic Factors

Another dimension to this problem is the socio-economic and residential settings of PwDs. A startling fact is that over 75% of SC/ST households do not have access to safe sanitation.[41] In rural areas where even today poor and low caste families live at the mercy of the powerful and rich upper castes, the disabled members of such poor, low caste families are left even more isolated. The social divide restricts SCs/STs from using community facilities. SC/ST women and persons with disabilities face exploitation. The barriers these excluded communities face are not limited to technology, design and monitoring of access issues. They have a larger social and economic context, which needs equal attention.

## Needing Special Attention

PwDs are almost invisible in the public arena, and excluded in terms of most processes concerning their lives. With the advent of the Persons with Disabilities Act 1995, the scenario regarding PwDs has gradually begun to change, but it still remains within the approach of welfare under the medical model. Also, the implementation of this Act and other laws has lagged behind because of the state's apathy, the low levels of awareness in society and among stakeholders, and their weak bargaining power. However, there has been an evident spurt in the awareness and advocacy for the rights of PwDs, especially after India signed the UN Convention on the Rights of Persons with Disabilities, 2007 (CRPD), as this has moved the emphasis of the movement to a rights based approach within the social model. In the discourse of rights, CRPD lays clear emphasis on respect for inherent dignity and individual autonomy, non-discrimination, full and effective participation and inclusion, equality and accessibility.[42]

Access to WASH in a dignified manner is an equally important aspect in the life of every PwDs irrespective of the type and severity of disability, gender and age. Understanding WASH needs from the lens of disability primarily requires the recognition of the discrimination at multiple levels faced by the disabled, which is coupled with a strong sense of stigma and social exclusion. Within this paradigm, a significant factor is the particularly disadvantaged position of women and girls with disabilities and those with orthopaedic disabilities. Even the Indian government recognises the problem of discrimination wherein it has clearly acknowledged that, "*Many disabled people face discrimination, exploitation or abuse due to negative attitudes, charitable perspectives, socio-cultural barriers and multiple discriminatory factors like gender, caste, religion or class and issues like non-implementation of existing laws"*[43].

Social discrimination and environmental barriers lead to the biggest problems for PwDs in general and specifically in limiting their access to WASH services

41. India Fact Sheet on Sanitation and Hygiene, Right to Sanitation Campaign, 2013.
42. Article 9 of UNCRPD, 2007.
43. http://www.transed2012.in/Common/Uploads/Theme_B_Session_3/427-presn-Mobility_Indian_Laws_need_harmonization_UNCRPD.ppt

in normal as well as emergency situations. This limitation is compounded by the fact that the needs of PwDs are fundamentally missing from WASH policies and standards. Thus, all those responsible for providing WASH services from the level of planning to maintenance have a key role in reducing attitudinal, institutional and environmental barriers. This duty is paramount and needs to be coupled with raising awareness and access to information on WASH to rectify the situation of exclusion of PwDs from decision-making processes that directly affect their lives and dignity on a daily basis.

The need of PwDs for WASH is a part of their daily struggle in all phases of life, and impacts them in homes, schools, public spaces, institutions, places of work and even hospitals. Many are dependent on care-givers for accessing WASH facilities, and have to wait at times for hours to be taken to the toilet. Many PwDs also find themselves in worse situations with no toilets to use, forcing them to go out to defecate, which adds to their plight and loss of dignity. The situation gets distressing when persons with disabilities who use mobility aids cannot defecate in the open nor have provisions of accessible toilet and bath facilities.

## Universal Design and Accessibility

Universal Design should benefit everyone including PwDs and other vulnerable groups in the community including children and women. In most developed countries, universal design principles are clubbed with accessible toilets which are meant for use by all viz. disabled, old, with medical conditions, families with young children and those who are temporary ill. Accessible unisex toilets are used by people who are assisted by the opposite sex and are very popular in many countries. In Japan, these toilets are referred to as multi-use toilets and attract users in diverse circumstances. For instance, a mother could be assisted by her son, or an old man by his granddaughter. However in India, where there are toilets, most do not have universal design elements, making it difficult for PwDs to use the facility on their own, further compromising their dignity and integrity and making them dependent and incapable. This leads to severe problems spanning health, violence, education, economy, human rights, dignity and environment. Girls and women with disabilities tend to hold urine due to the lack of toilets in public buildings and spaces, and face recurrent urinary tract infections and suffer from kidney stones.

Moreover, carrying water from distant water points or inaccessible means like hand pumps, wells or high water taps makes toilet usage impossible. The lack of separate toilets for girls, with most such toilets missing doors, and the insufficient focus on personal hygiene issues, including menstrual hygiene, causes girls and especially girls with disabilities to stop attending school. For girls using mobility devices, the problems are multi-fold as they not only require privacy like other girls but also need extra time. Instead, they are rushed due to inaccessible and unhygienic conditions and are exposed to infections.

In India, very few 'handicap toilets[44]' are provided at public places, such as in railway and metro stations and airports. These toilets are either locked or dumped with cleaning and other materials. Universal design and multi-use facilities will prevent misuse, and help towards maintaining functional toilets.

44. Term used by many service providers including Sulabh

## Case Study: Murmur speaks about concerns of women with disabilities

**Location:** Jharkhand

**Disability:** Limb Girdle Muscular Dystrophy (LGMD), a progressive neuromuscular disability that affects all four limbs

**Current Status/Occupation:** Working in a DPO with a negligible source of income

Murmur, aged around 45, resident of Churchu, a small village in Jharkhand, is a silent sufferer. She is afflicted with Limb Girdle Muscular Dystrophy (LGMD), a progressive neuromuscular disability that affects all four limbs. Living in abject poverty, her world is confined to her bed. A world which is devoid of not only opportunities for education, healthcare, employment or recreation but even basic human needs such as clean water, sanitation and hygiene.

Murmur's immediate family or community is unable to assist her in activities of daily living, especially toilet needs. So she does not eat or drink for days.

Murmur's immediate family members are her aged and senile mother, a brother who is also the sole bread earner, and a callous sister-in-law. Due to severe LGMD, she requires constant assistance for activities of daily living, but fails to find any support from her family or community. There are no public/private toilets or lavatories in Churchu. Everyone in the village goes out in the fields for defecation. Women are the first to rise and venture into the open, making them vulnerable to sexual abuse, unhygienic conditions and diseases. Nobody helps Murmur to transfer her into her broken wheelchair and wheel her through uneven terrain. So how does she manage?

She exploits herself by denying food and water, so that she doesn't have to pass urine frequently or defecate daily. Once in a week, her infirm mother gathers strength, to roll her over to one side of the bed and dangle her legs so that she can pass urine and stool in a polythene bag, which is disposed off by her mother, after cleaning Murmur. She now has skin diseases and other infections including weight problems due to hormonal imbalances.

Encouraged by a local NGO and despite leading a Disabled Persons Organisation (DPO) with a few members, Murmur still hasn't found a solution. Government of India (GoI) schemes such as Nirmal Bharat Abhiyan (drive for eradicating practice of open defecation by promoting use of lavatories in villages) rarely filter down in her Naxalite affected remote area.

In a recent action oriented study on "Anthropometrics of Mobility Aids Users in India", the Samarthyam research team visited Jharkhand and conducted a focus group discussion with the mobility aid users in villages. When the team met Murmur in June 2012 at Churchu village, everyone was emotionally moved by her ordeal. Thereafter in many forums and seminars, Samarthyam narrated her story to bring about sensitivity to the issue of Water, Sanitation and Hygiene (WASH), discrimination and multiple disadvantages faced by women with disabilities in our country. As a result of regular follow ups by Samarthyam and active support by international and local NGOs, efforts are currently underway for the construction of accessible toilets in the houses of persons with disabilities in the district, including Murmur's house. Monitoring mechanisms by local NGO involved in the construction of the toilet as per her needs and feedback about modifications will make her more independent and confident. However, it is time that the Government of India, Block Development Officers and local NGOs work together to reach out to the last person in the area to make them aware of their rights, empower them and support them in accessing basic needs of daily living.

## Universality of WASH

PwDs have the same right to use toilets and other water sources, therefore they need to be based on a universal accessible design. In the recent thematic debate on Water, Sanitation and Sustainable Energy[45], it was clearly stated that "achieving universal access to safe drinking water, basic sanitation and modern energy services is one of the greatest multifaceted development challenges confronting the world today."

Often, only minor changes are needed to ensure that PwDs can be included in WASH service provisions. Involving them in programme design can help to ensure that WASH provisions respond to different needs, for example, by considering different water and sanitation technology options, using different ways to communicate hygiene messages or providing additional hygiene training to care-givers. The cost is negligible if universal design standards are ensured at the planning stage, and 1-2 % of the total project cost if adaptations are made later. Making WASH programmes more accessible, inclusive and user-friendly benefits everyone in the community in the long run, including older people, children, pregnant women and those who are ill or have progressive diseases like arthritis.

There are model building by-laws sent by the Advisory, Ministry of Urban Development to all states which include accessible toilets and bathroom standards in public buildings.[46] The Indian Roads Congress code IRC 103, 2012 Guidelines for Pedestrian Facilities[47] mandates provision of accessible toilets for women and men with disabilities in public spaces such as markets, bus stops, transit terminuses, etc. Recent Guidelines on Barrier Free Environment for children with disabilities in schools[48] under the Sarva Siksha Abhiyan (SSA) highlight practical solutions for persons with disabilities. Adaptations are required according to their specific needs. For example, a child with cerebral palsy may require a back support and a head rest on the western commode seat. For a wheelchair user who can independently use a WC, it will require a set of grab bars next to the seat for transfer, support and balance. Similarly for persons with visual impairments, straight paths, guided approach by means of tactile pavers/ rails make it easier and safe for PwDs to access the facilities.

45. Post-2015 Development Agenda, held in February 2014.
46. http://www.urbanindia.nic.in/programme/ud/Research%20Study_Building%20Regulations_Access%20Standards.pdf.
47. Indian Roads Congress Guidelines published in 2013
48. Guidelines by Samarthyam supported by VSO and UK Aid, published in February 2014.
49. http://indiasanitationportal.org/66.
50. http://tsc.gov.in/tsc/NBA/NBAHome.aspx.

## India's Sanitation Campaign[49]

Launched in 1999 by the Ministry of Rural Development, the Total Sanitation Campaign (TSC), a flagship scheme, advocates a shift from a high subsidy to a low subsidy regime with a greater household involvement and demand responsiveness. This scheme has been recently renamed and reframed as the 'Nirmal Bharat Abhiyan' (NBA)[50], wherein the government has planned a 10-year strategy to end open defecation, ensure adoption of safe hygiene practices by all and manage waste effectively. The relevant deadlines which the government has set for itself are as follows:

- End of open defecation and safe disposal of faecal waste by 2017.
- Adoption of safe hygiene practices by all, especially children and care-givers by 2020.
- Effective management of solid and liquid waste management by 2022.

These deadlines are extended ones, as the government failed to meet the ones set in the past due to its casual approach. Also, these guidelines do not mention or make special provisions for the WASH needs of PwDs, although they cover homes, schools and anganwadis. It must be understood that when generic provisions are formulated, persons with special needs have a real danger of slipping through the cracks, which is why it becomes necessary to make special provisions to ensure inclusion and coverage.

The strengths of the flagship programme include a clear emphasis on Information, Education and Communication (IEC), social marketing for demand generation for sanitation facilities and a delivery system through Rural Sanitary Marts (RSMs) with a particular thrust on school sanitation. Nevertheless, PwDs are missing from this agenda, and fund allocation for accessible toilets for PwDs is negligible. The Ministry of Drinking Water and Sanitation had stated in its Nirmal Bharat Abhiyan report that 2.5 lakh toilets were constructed for BPL families in the country. However, it does not mention any statistics for toilets for PwDs. Also, there is a lack of trained personnel/ masons with knowhow about accessible toilet standards, and the Nirmal Bharat Abhiyan does not address dissemination of accessible toilets norms. As a result, faulty toilet units are constructed that remain unused/ locked and without maintenance.

## Responding to Challenges

The core challenge regarding sanitation and hygiene facilities is equity and inclusion. The biggest sufferers are marginalised communities including PwDs, women, children, the poorest of the poor, tribals, etc. Although the government promises a separate budget for the population in remote and difficult areas, the facilities do not reach them at the ground level. Money is released, but schemes are often implemented only on paper. Sanitation audits and disability inclusive facilities with an accessibility lens are required to address the issues faced by PwDs regarding WASH. All stakeholders have a responsibility to meet this goal.

Considering the sanitation crisis in South Asia, in which India's plays the most prominent role, it is time the government is brought to account to fulfil its promises.

## Recommendations

The WASH sector has proposed the following targets in the MDG post 2015 WASH agenda aimed at tackling inequalities and addressing the needs of girls and women. If the following target indicators are followed for the next 5 years, these goals can be achieved.

- The Government of India should recommend inclusiveness and equity in WASH, in the post 2015 MDG development framework.
- The Ministry of Drinking Water and Sanitation should allocate 15% of the total sanitation budget to meet the needs of PwDs and to improve standards of sanitation infrastructure and facilities.

### Ensure Universal Access

Provision of accessible toilets in all households, schools, health centres, work places, public buildings and public spaces/places. Non- negotiable standards should be included, which are as follows:

- Accessibility
- Safety
- Dignity
- Ensure access to sanitation in all situations including disasters, emergencies, conflicts and migration.
- Ensure access to sanitation services to make them usable and accessible for the entire population, and develop separate sanitation investment plans to bridge these service gaps in both rural and urban areas including slums.
- Include specific measures to increase community participation, particularly that of PwDs, in planning, implementation and management of sanitation services, and for improving transparency and accountability.
- Develop a participatory multi-stakeholder monitoring mechanism for annual reporting against clear indications for poor, marginalised and excluded groups, including people with disabilities, women, children and older people.
- Address the stigma of impurity and pollution ascribed to sanitation especially to menstruation and to those providing sanitation services, and ensure that services are provided in a gender, age, disability and culturally sensitive manner, consistent with human rights and dignity.
- Accessible toilets need to be provided for girls and boys. Separate cubicles are required near the general toilets and within 30 metres of the school premises.
- Allocation of funds and capacity building of the contractors, communities, and school management committees (SMC) is required to provide accessible and functional toilets.
- Girls' toilets should have menstrual hygiene management (MHM) facilities with running water.
- Individual House Hold Latrines (IHHL) with accessible features should be provided for PwDs. Household surveys should be conducted by local NGOs, block development officers, etc. to identify people with disabilities and provide adaptations in the toilets to suit individual needs.
- The Community Sanitary Complex should have accessible bathrooms cum toilets for PwDs, with a separate cubicle, one each for male and female blocks. Planning, design, the tenders process and implementation should be carried out and maintained regularly for optimal usage.
- Good practice models of low-cost, low maintenance and accessible bathrooms and toilets which cater to the needs of PwDs should be scaled up and replicated.
- Information, Education and Communication (IEC) and other materials used for sensitisation of people in the community need to be innovative and available in alternate and accessible formats, to cause a demand responsive approach from PwDs and improve their health seeking behaviour in the community.

# City Makers and Wash: Towards a Caring City

6

*Indu Prakash Singh and Anil Kumar*

## Introduction

'CityMakers are the manifestation of malignant justice. 'CityMakers' are the poor, unrecognised women and men, including the elderly, children and disabled, who labour hard for their survival and build our cities. CityMakers are in the most vulnerable position as they face extreme deprivation and neglect. They do not have access to any legal space in the cities, though they are the ones who have made large parts of the cities habitable. They are socially and politically ostracised. They don't have any rights, even the right to beg for their living! Although CityMakers coexist with the urban poor in cities, their condition is worse than the latter. The main distinctions are: CityMakers do not have access to a roof over the head, and lack valid identity proof. The urban poor who live in slums/shanties possess identity proofs like election cards, ration cards, and also have access to basic services. CityMakers do not have any of these facilities, and are 'unrecognised' by the state because they do not have a permanent address. They live on the pavements, rickshaws, handcarts, flyovers, under bridges, etc. They are subjected to regular beatings by the police, who in a way 'own' the cities. They don't have any identity, no welfare schemes and even the law dubs them as 'vagrants and beggars'. It is believed that CityMakers do not warrant government attention.

The term 'CityMakers' has a positive connotation, while the term 'homeless' is a situational description. It emerges from the positive human rights discourse which is supported by the Constitution of India and various UN Charters, Covenants and Conventions to which India is a signatory. The term 'CityMakers' also subsumes the worth of the city builders, who might be poor due to lack of reach/access to resources, but rich in terms of their labour, which brings a city into existence. Cities are a tribute to the sacrifices the CityMakers have made. A correct label can give power, privileges, entitlements and rights in many ways. CityMakers is a positive term to acknowledge their status and ensure that they will get their due by presenting them as the 'makers of any city'.

The paper is set in the urban context wherein a major social group, the CityMakers, continues to lag behind in all indicators` of social development. The dimensions and dynamics of urban inequalities do not reflect in the urban agenda for a transformative, equitable and caring city. The presence of a large segment of the population without adequate access to water, sanitation and hygiene (WASH) cannot be simply presented as an urban informality, resulting from urbanisation. The paper presents evidence on the lack of adequate access of CityMakers to WASH, analyses why serious interventions have to be made, and suggests strategies to improve the scenario. It argues that access to WASH for CityMakers should be built on the 'Right to City' framework in India. It calls for a focus on targets to provide a life of dignity to the CityMakers. It also seeks

to show that from the perspective of CityMakers, WASH interventions should not be the exclusive domain of engineers, health professionals, technocrats and government officials, but should involve social activists, behaviour change experts, a whole range of stakeholders in the city and, vitally, the CityMakers themselves.

## Constituency of CityMakers

CityMakers (homeless urban workers) are not enumerated in the census, and there is no government data which specifies their total population in the cities. As per the 12th Five Year Plan Housing Shortage Estimation Committee, there were only 0.53 million total homeless households in 2012.[51] Authoritative estimates of the number of urban poor exist, although with some variance, but there are no estimates of the total number of CityMakers. The reasons for their under enumeration include political apathy, lack of permanent dwelling places and identity proofs, mobility, apathy and negligence of CityMakers, etc. They remain 'invisible', despite their large presence in many cities. In the 2001 census, a country-wise enumeration of urban homeless people was undertaken. It estimated 285.3 million people in the cities who were homeless (Census, 2001). However, this census figure was challenged by various voluntary organisations as it greatly underestimated the number of homeless people. Delhi, the capital city of India, has an estimated homeless population as high as 150,000 (Singh, 2012 cited in One World South Asia, 2012). Many have migrated to the city due to structural and cultural marginalisation which manifests in the form of poverty, unemployment, debt, cultural atrocities, etc. It also needs mention that a large number of CityMakers in the cities are victims of multiple evictions in the name of infrastructure development (for instance, before the 19th Commonwealth Games held in Delhi). The number of CityMakers has been growing despite the so-called economic boom. Although the contribution of CityMakers who constitute the core of the urban labour force to the economy of the city is significant, they are left out. Whatever be their total figure, the rights of CityMakers cannot be denied.

## Access to WASH as a Right

The right to water and sanitation is a fundamental human right necessary for the fulfilment of an adequate standard of living and human dignity. This has been recognised and affirmed in various international treaties and political commitments as mentioned below:

- The International Covenant on Economic, Social and Cultural Rights (ICESCR) article 11(1) stipulates that:

  *The State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international cooperation based on free consent*.

51. Report of the Technical Group on Urban Housing Shortage (TG-12), Ministry of Housing and Urban Poverty Alleviation, Government of India, New Delhi.

The use of the word 'including' implies an adequate standard of living, is not limited to this catalogue of rights, and is not intended to be exhaustive. Adequate water and sanitation is also necessary for an adequate standard of living.

- The Programme of Action of the 1994 Cairo Conference on Population and Development, endorsed by 177 States, recognises in Principle 2 that:

*Countries should ensure that all individuals are given the opportunity to make the most of their potential. They have the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation.*

- Principle 11 of the Habitat Agenda, adopted in the framework of the Second UN Conference on Human Settlements (1996) states that:

*Everyone has the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation, and to the continuous improvement of living conditions.*

- Access to water and sanitation is also required in order to realise other human rights explicitly contained in the General Comments of ICESCR including health, adequate housing, and education:
    1. *General Comment No. 14: The right to the highest attainable standard of health, UN ESCOR, 2000 para 43 (c). (See also paras11, 12, 15, 36).*
    2. *General Comment No. 4: The right to adequate housing, UN ESCOR, 1991, UN Doc.E/1992/23, para 8 (b).*
    3. *General Comment No. 13: The right to education, UN ESCOR, 1999, UN Doc.E/C.12/1999/10, para 6 (a).*
- Article 14 (2)(h) of the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) stipulates that State parties shall ensure to women:*…the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication.*
- The UN Committee on Economic, Social and Cultural Rights *General Comment No. 15: The right to water* (2002), U.N. Doc. E/C.12/2002/11. Sanitation is also included in this General Comment.

*The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements* (para 2).

And,

*…access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources. In accordance with the rights to health and adequate housing (see General Comments No. 4 (1991) and 14 (2000)) States parties have an obligation to progressively extend safe sanitation services,*

*particularly to rural and deprived urban areas, taking into account the needs of women and children* (para 29).

- The UN General Assembly Resolution 64/292: The Human Right to Water and Sanitation (2010) recognises 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 (UN General Assembly, 2010: para 8).
- The UN Economic and Social Council in its *Draft Guidelines for the Realization of the Right to Drinking Water and Sanitation* (UNESC, 2005) has defined the right to water as "the right to a sufficient quantity of clean water for personal and domestic uses" and the right to sanitation as "the right to have access to adequate and safe sanitation that is conducive to the protection of public health and the environment".

In addition to the above, there are provisions in the Indian Constitution, case law and national policies which are relevant to the right to water and sanitation as given below:

- Article 21 of the Indian Constitution states: No person shall be deprived of his life or personal liberty except according to procedure established by law.
- Most of the Municipal Acts make sanitation and water supply an obligatory function of the local authorities, for example: Uttar Pradesh Municipalities Act, 1916; Karnataka Municipal Corporations Act, 1976; The New Delhi Municipal Corporations Act, 1994 (Section 147)
- Case law in India, drawing on the Indian Constitution and Municipal Acts, has recognised the right to water and sanitation. Examples of the right to water in case law include: S.K. Garg v. State, AIR 1999 All 41 (India 1999); M.C. Mehta v. Union of India, AIR 1998 SC 1037 (India 1998); Subhash Kumar v. State of Bihar, AIR 1991 SC 420 (India 1991) (noting that the right to live includes the right to pollution-free water necessary for the full enjoyment of life); Attakoya Thangal v. Union of India, 1990 KLT 580 (Kerala, India 1990), while on sanitation include: *Municipal Council, Ratlam v. Vardichan* (Supreme Court of India, 1980), (1980) 4 SCC 162. In this case the Supreme Court stressed that, *"*[d]*ecency and dignity are non-negotiable facets of human rights."* The Court ordered the municipality to decrease its budget on other items and use the savings for sanitary facilities and public health measures, including the construction of a sufficient numbers of public toilets.
- The Delhi High Court orders: 1) On W.P.(C) 29/2010 on 2nd February 2011, the court directed that ten mobile toilets should be made available at Chabi Ganj shelter home within a week and also directed the Health Secretary of the Government of the National Capital Territory of Delhi (GNCTD) to consult the Delhi Urban Shelter Improvement Board (DUSIB) to assess how many permanent toilets are necessary, and that the same shall be constructed within a period of two months; and 2) On W.P.(C) 29/2010on 25th May 2011 in which it observed that: "It will be an anathema to Article 21 of the Constitution of India if the people in need and in abject poverty, who are

required to survive and live in shelter homes, are not provided with drinking water and fans". The court directed DUSIB to provide drinking water in the shelter homes and also provide at least two toilets, which are kept and maintained in a hygienic and clean condition.

## Access to WASH: A Question of Survival

Access to adequate sanitation, together with good hygiene and safe water, is a basic necessity for good health and social and economic development. What most people normally take for granted is a huge challenge for the CityMakers. Lack of affordable housing and shelter compels them to live and take care of their basic human needs in public. Being forced to defecate and urinate in public places due to lack of facilities is dangerous for us all. Public toilets are few and far between and are open for only limited hours, so that CityMakers are forced to use alleys and open spaces for relieving themselves. Lack of access to storage facilities even for their bare minimum possessions –clothes, medical and hygiene items – complicates the problem further. A shortage of services such as shelters, medical services, bathrooms, laundry facilities, clothing and food make daily survival of CityMakers a difficult endeavour. Even in cities where public taps, shelters for CityMakers and public toilets exist, their condition is so pathetic and CityMakers prefer not to use them. They do not have access to clean drinking water. Finding a safe drinking water source itself becomes a difficult task, as most CityMakers are always on the move. Women, children and the elderly face adverse health impacts. Women living without shelter have to face difficulties such as defecating and bathing in the open, and are subjected to all sorts of sexual harassment. Thus they bear the maximum brunt in the absence of such facilities. Adequate access to water and sanitation is important for the overall improvement of hygiene and reduction in water-borne and skin diseases. A lack of safe drinking water and sanitation causes outbreaks of infectious diseases. CityMakers who do not have the financial wherewithal to pay for care easily succumb to such epidemics due to their poor nutritional status. A lack of adequate and proper nutrition only causes health disorders, but also leads to a high mortality rate among CityMakers. Hence, access to WASH is a question of survival for the CityMakers.

In March 2013, Vicky Walters, an academic researcher from New Zealand and an Honorary Academic in the Centre for Development Studies at the University of Auckland, conducted evidence-based research about the access to water and sanitation for CityMakers in Delhi. It revealed that the non-discriminatory right to water and sanitation for CityMakers in Delhi remains unrealised, and that the government and its agencies are falling short of their international, constitutional and legal obligations and responsibilities. The various elements of the *Draft Guidelines for the Realization of the Right to Drinking Water and Sanitation* (UNESC, 2005) which are of special interest and relevance to the urgent and immediate enhancement of the right to water and sanitation for CityMakers and the key findings of the study by Walters are summarised in Table 6.1.

**Table 6.1: Findings of the study on the access to water and sanitation for CityMakers in Delhi**

| Section | Guidelines | Evidence |
|---|---|---|
| 1.1 | Everyone has the right to a **sufficient quantity of clean water** for personal and domestic uses | Permanent shelters have access to either Delhi Jal Board (DJB) or borewell water on-site in adequate quantities to meet an acceptable quality of life (as evidenced from Regarpura shelter).<br>In porta-cabin shelters drinking water is supplied by the DJB every two or three days through mini-tankers which is stored on-site in 500 litre holding tanks. The number of shelters and holding tanks at different shelters varies, and therefore, so does the achievement of an adequate amount of drinking water (as evidenced from shelters at Lodhi Road Institutional Area, Himmatgarh, Bangla Sahib, Tilak Nagar, Nigambodh and Majnu ka Tilla).<br>*Homeless citizens who, for various reasons are not able, or choose not to, use shelters due to distance, conflicts, availability, etc., are in a precarious situation with respect to obtaining an adequate supply of water for drinking and cooking purposes, as well as personal hygiene including menstrual hygiene, and anal and genital cleansing.* |
| 1.2 | Everyone has the right to have access to **adequate and safe sanitation** that is conducive to the protection of public health and the environment | Permanent shelters which have toilets and bathrooms on site provide adequate and safe sanitation (as evidenced from Regarpura shelter).<br>Some porta-cabins have no sanitation facilities on-site (as evidenced from shelters at Lodhi Road Institutional Area, Himmatgarh and Majnu Ka Tilla).<br>Porta-cabin shelters with portable toilets were in many instances unhygienic, did not prevent human, animal and insect contact with excreta, did not have water points positioned to enable use for personal hygiene, including menstrual hygiene, and anal and genital cleansing, and excreta and wastewater were not removed with sufficient regularity to meet the demand use.<br>Public sanitation blocks used by people who stay in porta-cabin shelters or those who sleep in the open or makeshift tents were, in many instances, unhygienic and did not prevent human, animal and insect contact with excreta due to lack of sufficient cleaning (as evidenced from shelters at Himmatgarh and Lodhi Road Institutional Area).<br>People compelled to go for open defecation and to bathe in the open had insufficient and unsafe sanitation environment because the grounds were unhygienic, did not prevent human, animal and insect contact with excreta, did not have water points positioned to enable use for personal hygiene, including menstrual hygiene, and anal and genital cleansing, and excreta and wastewater were not removed (as evidenced from shelters at Nigambodh and Majnu Ka Tilla). |
| 1.3 (a) | Everyone has the right to a water and sanitation service that is **physically accessible within, or in the immediate vicinity of the household**, educational institution, workplace or health institution | Both permanent and porta-cabin shelters provided drinking water services which were physically accessible within, or in the immediate vicinity of the shelter. Only the permanent shelter at Regarpura provided sanitation services including toilets and places to bathe and wash clothes which were physically accessible within, or in the immediate vicinity of the shelter.<br>The distance to public sanitation blocks or other water and sanitation facilities such as temples varied for the porta-cabin shelters and homeless people who were sleeping in the open or in makeshift shelters. Only shelters at Himmatgarh and Lodhi Road Institutional Area had public sanitation blocks in the immediate vicinity. The estimated distances to public sanitation blocks provided by homeless citizens in the focus group discussions and interviews included: Himmatgarh (15 metres); Lodhi Road Institutional Area (25 metres); Asaf Ali Road (400-500 metres); Chandini Chowk (500 metres); Majnu Ka Tilla (1 km); Nizamuddin Flyover (1 km); Urdu Park (1 km); Nigambodh (2 km).<br>The public sanitation facilities in the vicinity of the Himmatgarh shelter were the only ones accessible for 24 hours. For all the other porta-cabin shelters and for those who were sleeping in the open or in makeshift tents, the closest public sanitation facilities shut at night (between 8 pm and 11 pm). After this time, people were forced to go for open defecation which compromised their personal safety.<br>Some shelters have portable toilets available which are physically accessible in terms of vicinity (as evidenced from shelters at Meena Bazaar Park, Bangla Sahib, Nigambodh and Tilak Nagar).<br>Majnu Ka Tilla has neither a public sanitation block within the immediate vicinity nor are portable toilets provided. People here are compelled to go for open defecation in the open land adjacent to the shelter posing personal safety and health risks. |

| Section | Guidelines | Evidence |
|---|---|---|
| 1.3 (b) | Everyone has the right to a water and sanitation service that is of **sufficient and culturally acceptable quality**. | <u>Water</u><br>Drinking water was of sufficient and culturally acceptable quality in both the permanent and porta-cabin shelters. Drinking water for people who slept in the open or in makeshift tents was not sufficient due to the requirement to pay (see 1.3d), and/or only having access to untreated borewell water (as evidenced from Chandini Chowk).<br><u>Sanitation</u><br>Sanitation was only sufficient and of a culturally acceptable quality in Regarpura shelter. In porta-cabin shelters or in cases where people were sleeping in the open or in makeshift tents, sanitation was not of sufficient and culturally acceptable quality. The reasons included:<br>• insufficient water to bathe and wash clothes frequently;<br>• cost of services for going to the toilet, bathing and washing clothes;<br>• poor quality of water sources which could result in skin infections(i.e. borewells and the Yamuna River);<br>• inadequate privacy, and;<br>• inadequate bins for women to dispose of sanitary napkins. |
| 1.3 (c) | Everyone has the right to a water and sanitation service that is in a location where **physical security** can be guaranteed | In both the permanent and porta-cabin shelters, drinking water was in a location that guaranteed personal safety.<br>Physical security in accessing public sanitation facilities was often compromised. The reasons for this include:<br>• police brutality while walking to the facilities at night (Asaf Ali Rd);<br>• not being open 24 hours (all except Himmatgarh), and;<br>• going for open defecation (in areas prone to flood, i.e. Nigambodh; rough terrain and potholes, i.e. Majnu Ka Tilla and Nigambodh; attacks by dogs or other humans in all locations, and especially for women). |
| 1.3 (d) | Everyone has the right to a water and sanitation service that is supplied at a price that everyone can afford without compromising their ability to acquire other basic goods and services | <u>Drinking Water</u><br>Permanent shelters and porta-cabin shelters are provided with drinking water either by the Delhi Jal Board or through on-site borewells. These are free of cost and do not place a financial burden on homeless people (as evidenced from shelters at Regarpura, Lodhi Road Institutional Area, Himmatgarh, Bangla Sahib, Tilak Nagar, Nigambodh and Majnu Ka Tilla).<br>Homeless citizens who sleep in the open or in makeshift tents either have to pay for drinking water from private vendors, beg for water, access untreated borewell water from public sanitation facilities, or rely on private sources, i.e. petrol stations(as evidenced from homeless people staying at Nizamuddin Flyover, Asaf Ali Road, Chandini Chowk and Urdu Park – Jama Masjid).<br>In the Asaf Ali Road, area homeless people were buying water from local shops at Rs 2 per pouch or from mobile water vendors at Rs 1 per glass. An average of Rs 20 per day was spent on purchasing water. Daily income was between Rs 100-120. Expenditure on drinking water was therefore between 20–24% of daily income.<br><u>Sanitation and personal hygiene</u><br>Permanent shelters serviced by either DJB water connections or on-site borewells are able to supply water and facilities for sanitation and personal hygiene purposes free of cost. This is an optimal situation (as evidenced from Regarpura shelter).<br>Porta-cabin shelters are currently unable to provide water and facilities for sanitation and personal hygiene purposes. Many people, who stay in porta-cabin shelters sleep in the open or in makeshift tents, use public sanitation facilities for urinating and defecating, personal bathing and washing clothes. These services were either free of cost, or the cost varied and went up to Rs 10.<br>The cost of public sanitation facilities often forces people to go for open defecation and creates hardship in terms of personal cleanliness, as they have to limit how often they bathe and wash clothes.<br>Most people stated that they wanted to be able to bathe daily, but could only afford to bathe twice or thrice a week. This is particularly of concern for menstruating and pregnant women. |

| Section | Guidelines | Evidence |
|---|---|---|
| 2.3 (a) | States should at all levels of government give priority in water and sanitation policies and programmes to the persons without any basic access | The National Urban Sanitation Policy (2008) and the National Water Policy (2012) make no mention of homeless citizens, nor do they explicitly recognise the right to water and sanitation. |
| 3.2 | States should give particular attention to the needs of individuals or groups who are vulnerable or who have traditionally faced difficulties in exercising their right to water and sanitation, including women, children, indigenous peoples, persons living in rural and deprived urban areas, nomadic and traveller communities, refugees, asylum-seekers, internally displaced persons, migrant workers, prisoners and detainees, as well as other groups facing difficulties with gaining access to water | The right to water and sanitation for homeless citizens in Delhi is not presently being given sufficient attention by state parties, as indicated by the evidence furnished in this study. |
| 3.3 | States should give priority to providing water and sanitation services to institutions serving vulnerable groups, such as schools, hospitals, prisons and refugee camps | Water and sanitation facilities for vulnerable homeless citizens are not given priority by state parties as indicated by the evidence furnished in this study. |
| 5.3 | Water and sanitation facilities should be designed to take account of the needs of women and children | Sanitation facilities in porta-cabin shelters and for those who sleep in the open or in makeshift tents do not take into account the needs of women and children.<br>While some porta-cabin shelters have portable toilet facilities available many are unsanitary and present numerous dangers for women and children such as a lack of locks and an insufficient quantity.<br>While public sanitation blocks have a separate area for women, often these can be easily accessed by men, do not have locks on the doors, and are poorly maintained to the point that privacy cannot be obtained or guaranteed. |
| 5.4 | No one should be denied access to water and sanitation because of his/her housing or land status. Informal human settlements should be upgraded through the provision of water and sanitation services and through assistance with the construction of their own water and sanitation facilities | Evidence from this study would suggest that homeless citizens are denied equal and non-discriminatory access to sufficient water and sanitation services based on their housing status. Only at the permanent shelter in Regarpura were water and sanitation services sufficient to meet the right to water and sanitation. |
| 6.1 | States should ensure that they have appropriate water and sanitation pricing policies, including through flexible payment schemes, and cross-subsidies from high-income users to low-income users | Pricing policies at public sanitation blocks can prohibit individuals from accessing facilities. This can result in the practice of open defecation which threatens personal safety, public health and the environment. |
| 6.4 | States should ensure, before a person's access to water and sanitation services is reduced owing to non-payment that account is taken of that person's ability to pay. No one should be deprived of the minimum essential amount of water or access to basic sanitation facilities. | Participants in the study reported that they can be denied access to public sanitation blocks if they are unable to pay. |
| 7.1 | States should establish water-quality standards on the basis of the World Health Organization guidelines, taking account of the needs of vulnerable groups and upon consultation with users | Drinking water quality standards are already in place in India. However, for those who access un-purified borewell water, these standards cannot be guaranteed. |

| Section | Guidelines | Evidence |
|---|---|---|
| 8.1 | Everyone has the right to participate in decision-making processes that affect their right to water and sanitation. Special efforts must be made to ensure the equitable representation in decision-making of vulnerable groups and sections of the population that have traditionally been marginalised, in particular women | All participants expressed that they had not been requested or approached by any state party to participate in decision-making regarding their right to water and sanitation. |
| 8.2 | Communities have the right to determine what type of water and sanitation services they require and how those services should be managed and, where possible, to choose and manage their own services with assistance from the state | All participants expressed that they had not been requested or approached by any state party to determine what type of water and sanitation services they require and how those services should be managed. |
| 8.3 | Everyone should be given equal access to full and transparent information concerning water, sanitation and the environment held by public authorities or third parties. | No participants had attempted to furnish any information from the public authorities regarding their water and sanitation situation. This was largely to do with apathy that the state would be receptive to their needs. |

*Source: Vicky Walters (2013). Submitted to the Honourable High Court of Delhi (WP (C)29/2010) in 2013.*

## Policy Landscape

In India, the issue of sanitation remained neglected for a long time, particularly for urban areas. An overview of developments in the policy space is given below:[52]

- Water supply and sanitation added to the first Five Year Plan in 1951
- Integrated low cost sanitation scheme (ILCS) for urban areas launched in 1980-81
- Drafting of National Water Policy in 1987
- 74th Constitutional amendment in 1993 recognising the constitution, powers and functions of urban local bodies
- National Health Policy in 2000 recognising the link between sanitation and health
- Valmiki Ambedkar Awas Yojana (VAMBAY) of 2001 included sanitation as part of housing
- 10th Five Year Plan placed a significant emphasis on urban water supply and sanitation
- Jawaharlal Nehru National Urban Renewal Mission (JnNURM) launched in 2005 with provisions for providing basic services for urban poor
- National Urban Sanitation Policy (NUSP), 2008
- Rajiv Awas Yojana (RAY) to create slum-free cities launched in 2011.

Sanitation became an important policy concern only in 2008, with the launch of the National Urban Sanitation Policy (NUSP)[53]. The vision of the NUSP 2008 is that: 'All Indian cities and towns become totally sanitised, healthy and liveable and ensure and sustain good public health and environmental outcomes for all their citizens with a special focus on hygienic and affordable sanitation facilities

52. Dasra (2012), Squatting Rights, Access to Toilets in Urban India.
53. Government of India (2008), National Urban Sanitation Policy, Ministry of Urban Development, New Delhi.

for the urban poor and women'. The overall goal of this policy is to transform urban India into community-driven, totally sanitised, healthy and liveable cities and towns. The policy is intended towards making cities 100 % open defecation-free and 100 % safe in terms of disposal of human excreta and liquid wastes.

The National Water Policy (2012)[54] recognised that water is fundamental for life, livelihood, food security and sustainable development. It states that "water needs to be managed as a common pool community resource held, by the state, under public trust doctrine to achieve food security, support livelihood, and ensure equitable and sustainable development for all. The Centre, the States and the local bodies (governance institutions) must ensure access to a minimum quantity of potable water for essential health and hygiene to all its citizens, available within easy reach of the household".

However, as mentioned earlier in Table 6.1, *the National Urban Sanitation Policy (2008) and the National Water Policy (2012) make no mention of CityMakers, nor do they explicitly recognise their right to water and sanitation.*

## The Way Forward: Towards a Caring City

Water and sanitation services bring a host of benefits for community development. They get girls back into school, women into employment, and improve health, dignity, wellbeing and independence (WaterAid, 2012)[55]. Access to WASH is more critical for the CityMakers because they are the poorest and the most marginalised people who lack a voice to bargain for and are unable to invest in improving their situation. The Caring City Charter (Box: 6.1) is a way forward for providing a dignified life to them.

Goal 7 of the Millennium Development Goals (MDGs)[56] is linked to shelter security, in which access to water and sanitation are very critical. Although the MDG targets on WASH are unmet till now, it is vital that sanitation, along with safe water and hygiene, be placed at the forefront of the new post-2105 framework. The new framework must move beyond serving just the easy-to-reach, to include all CityMakers who find their access to WASH limited. We need to stop criminalising CityMakers and start providing a place where they can legally and safely go to find - without difficulties or requirements - a safe and sanitary place to meet their basic needs. Some of the important elements for an inclusive urban development with a serious commitment to redress the low political and financing priority given to CityMakers' adequate access to WASH are given below:

- Democratise urban discourse by engaging with CityMakers. Participatory processes should guide political understanding in policy making. The movement to make this a reality must be led by CityMakers and other urban poor.
- The capacity of the city administration must be strengthened to carry out their responsibility for ensuring adequate and equitable provision of WASH services to CityMakers.
- Investing in appropriate basic infrastructure and municipal services identified, implemented and operated by CityMakers.

54. Government of India (2012), National Water Policy 2012, Ministry of Water Resources, New Delhi.
55. WaterAid (2012), cited in Homeless International (2012). How can water and sanitation provision empower the urban poor? Learning Brief No 2, June 2012.
56. http://www.unmillenniumproject.org/goals/gti.htm#goal7 accessed on 2ndMarch 2014.

- Provision of an appropriate 'package' of affordable basic services that substantially improve the living conditions of CityMakers.
- Property rights and security of tenure are critical to sustainable approaches to end homelessness, and policy interventions towards that end should be given primacy.
- The bureaucratic arrogance, indolence, and indifference to CityMakers and the problems they face must go.

**Box 6.1:**

**Caring City Charter of CityMakers**

1) Recognise homeless people as 'CityMakers', who contribute substantially to building cities. Create adequate functional shelters (24x7x365 days) for them in cities as per the order and guidelines of the Supreme Court of India, leaving no one to sleep without a shelter in the cities (one shelter per lakh population). Shelters for CityMakers to be part of the housing continuum and special focus on housing for CityMakers with the commitment to the goal of ending homelessness.
2) Separate shelters should be made for women and those with families, and special care provided for pregnant and lactating mothers in such shelters.
3) All CityMakers in shelters should be provided access to free health care, clean drinking water, toilets, child care and children's education.
4) Ensure that no CityMaker is harassed for want of identity proof, as it is the responsibility of the state to provide valid identity proof to its citizens, including the CityMakers.
5) Abolish outdated legislations like the Bombay Prevention of Beggary Act 1959 as they criminalise the poor.
6) Ensure that no CityMaker is beaten and unnecessarily harassed by the police in the cities. Human rights of CityMakers to be protected, and not violated.
7) Recognise the clear linkage between housing and livelihood. Shelters should be provided close to the CityMakers' locations of work.
8) Duly investigate instances of death of CityMakers on the streets, conduct post-mortems to ensure cause of death, and make autopsy reports available.
9) Drug de-addiction centres to cater to those dependent amongst CityMakers should be run by local hospitals and aftercare recovery specialised shelters as well as those for people with disabilities.
10) Ensure urban development programmes in full conformity with the wider policy framework of inclusive cities and urban poverty alleviation.

***Source***: National Forum for Housing Rights (NFHR).

# ANNEXURE

## Important insights from the Consultative Workshops on Right to water and sanitation in India

The Forum and WaterAid India, in collaboration with local organisations, organised nine state and regional workshops on right to water and sanitation over the last four years (2011 to 2015). The workshops covered the states of Kerala, Tamil Nadu, Karnataka, Andhra Pradesh, Telangana, Maharashtra, Gujarat, Rajasthan, Madhya Pradesh, Chhattisgarh, Uttar Pradesh, Uttarakhand, Himachal Pradesh, Jammu & Kashmir, Bihar, Jharkhand, Odisha and the Northeastern region of India. A thematic workshop on 'RTWS in the context of floods and arsenic affected areas' was also organised. These workshops provided a platform for a very extensive consultation and more than 400 persons, drawn from civil society, academia, donor community, media and bureaucracy participated and provided their inputs.

Some of the key insights and suggestions emerged from discussions in these workshops are listed below.

### Need for Right to Sanitation in India

- Is right to sanitation (RTS) really required? A right is required when there is a problem, but open defecation (OD) is not a problem. It is a matter of attitude problem for the 'watcher' and not the 'defecator'. OD is not a crime, and one cannot impose compulsion on obeying the right. Under the name of RTS, constructing toilets is a big racket.
- RTS impinges on the right to remain healthy, so maybe some rules should be defined than compulsion.
- RTS shall give a legal guarantee of the right of the people to lead a safe and healthy life.
- A right is required to ensure that the dignity of the people, especially women and equality among the children. 50 years ago, RTS was not thought of, because it was not considered as an issue. But today with decreasing open space, health issues and discrimination against the poor, RTS is a must.
- A law is a must, so that a demand for better sanitation can be made from the government. Until we have a legal right, we cannot force the responsibilities on the agencies to deliver.
- RTS shall entitle everyone to sufficient quantities of safe water and sanitation services that are affordable, accessible, culturally acceptable, delivered in a participatory, accountable and nondiscriminatory manner
- The conventional process of achieving RTS is not working and hence a collaborative effort is required for alternative and constructive approaches, which forces the Government to recognize these rights.
- A right could forcefully create awareness among the masses and hence generate a need for better facilities.

### Defining sanitation

In all these workshops, one of the strong points that emerged was to redefine the term, 'sanitation'. Participants unanimously agreed that sanitation should not be limited only to constructing toilets for an open defecation free country. A larger and holistic approach towards sanitation is needed, encompassing disposal of waste through proper channels, managing municipal household waste, spreading awareness for better health and hygiene practices and behaviour change towards sanitation. The main elements of sanitation include dignity, health, security, education and livelihood. Thus, through the different workshops the definition of sanitation should include

- A process of regeneration of the environment to be fit for human habitation
- Disposal and management of human waste (excreta) ensuring that no human being comes into contact with human excreta, ensuring health and environmental safety
- Infrastructure and resources for all, everywhere, at all times
- Sensitive to specific needs of different sections of society and their life cycles. Sensitive means inclusive and sensitive design, availability of required water and personal hygiene inclusive of menstrual hygiene management, feasible technologies, gender , age and cross-disability friendly
- Removes stigma and is culturally accepted

### Sanitation status in India: Different laws, polices and schemes

- A law on sanitation is required. Although there are other ways to promote sanitation, like lobbying, writing, spreading but all these do not exclude the utility of law.
- There is currently no law related to health in India, although there is a National Health Bill that has been doing the rounds. Some municipal bodies have bye-laws for health, which includes provision for punishing people for urinating in the open; however, they do not speak instead of providing community toilets. All these aspects need to be articulated in RTS.
- Nirmal Bharat Abhiyan (NBA), now referred as Swacch Bharat Abhiyan (SBA), is a major national scheme to construct toilets in the rural areas. However the rising issue of the missing toilets, the lack of usage of the existing toilets raises questions about the missing data and misuse of the funds.
- The major focus of schemes is constructing toilets in the rural areas and there are often reports where the constructed toilets are not utilised. Therefore simply constructing toilets will not ensure total sanitation, but one has to also think about safe disposal of waste and cost for its operation and maintenance.

- The current schemes for sanitation provides incentives for constructing toilets and some budget is allocated for creating awareness. However, the scheme does not take into account the needs of the marginalised sections, like women, toilets at work place, disabled people, etc.
- Under RTS, a redressal grievance system at local level should exist to take strict action if RTS is not implemented.
- Having a right in place is important because it holds the state accountable, especially when money is allotted under various schemes and they are not implemented. Monitoring of the social audit and involvement of the women in these provisions (including budgetary allocation) should come under RTS.
- There are various technologies to take dispose waste, which need to be explored. Similarly, there are new toilet designs like Ecosan toilets, where minimal water is required and toilets designed, especially for flood affected areas.
- While using new technology, one need to consider the geographical aspect, as one solution to all problems may not work with success. Again the technology/ model should be developed taking into consideration the participation of the community, as at the end of the day the community will be making use of the model or technology.
- Recognition of the local institutions and committees in the villages, along with space to act freely and take decisions for the betterment of the community.

**Sanitation in schools (menstrual hygiene)**

- Young girls often leave or miss school due to lack of toilets. Schools need to be sensitive in not only constructing toilets but ensuring its functionality, so that clean toilets are available, especially girls during their menstrual cycle.

**Sanitation from the perspective of marginalised sections of the society**

- Most of the urban slums have non-functional community toilets, and one has to think of providing sanitation facilities from their perspective too. There are government schemes like Indira Awas Yojana and one has to think of providing sanitation facilities from their perspective too.
- It is the responsibility of the state to ensure allocation of sufficient funds, so that sanitation facilities are availed to the poor and the excluded sections of the society. Sanitation coverage is to be guaranteed beyond the legality or otherwise domicile status (citizenship) or of their residential issue (especially during the occurrence of the natural calamities/disasters).

### Manual Scavenging

- Although the Manual Scavenging Act was established years ago, the implementation of this Act itself has been very poor. There are many government institutions (like Railways) who appoint manual scavengers to dispose waste matter. Unless Acts like these are strengthened, RTS cannot be guaranteed.
- Women are often compelled to work for securing livelihood options. The act needs to be coupled with better livelihood options for its effective implementation.
- According to the Act, the sewage workers should be provided with safety gears and use of appropriate and modern technology should be used to clean the sewage lines. Also, the families of these workers should be provided with relied compensation and job in case of accidental death.
- The content of RTS should clearly define that the manual scavenging is not a function to be delivered by a certain aspect of the community. A clear write-up about the rehabilitation of the manual scavengers is required too. The laws created for manual scavenging are not implemented. A timeline for the implementation of laws and schemes, along with a provision that the concerned department will be fined/ punished if the law/ scheme are not implemented within a stipulated time frame, should be articulated.

### Data related to sanitation

- The authenticity of the collected data is important. Usually the Government sector collects data depending on the market conditions. Data can be collected and maintained at community level in order to take appropriate actions and improve the sanitation conditions.
- Analysis of financial allocations required for both water supply and sanitation sector should be done if time bound progress has to be done for realisation of these rights.

### Right to Sanitation Campaign in India

- Campaigns can be effective only to certain extent. Before any campaign a larger awareness and need for right has to be convened to the people.
- The ongoing movement of sanitation is a social transformation and the people at the grassroot level need to understand the importance of this movement. Unless this is done, the campaign or the initiatives taken under it has no meaning. One cannot compare the good sanitation practices in the world and try to implement them in India as the situation here is quite different and diverse. So, new methods have to be adopted and approached.
- RTS is a complex issue consisting of many components and this requires behavioural change in the people, which may be at a slower pace. The

campaign is aimed towards making the government accountable and responsible for sanitation. Currently, the Government is struggling to at different levels. When coming to these rights, we need to clarify these issues and expectations from the Government. Also, one has to understand that at what level to take this campaign forward.

- For the current campaign, the processes of developing consensus among people and the enactment of the draft has to move simultaneously. Behaviour change in people is one process to bring about a change, but the involvement of the Government, looking into the facilities provided by them and defining the roles and responsibilities is equally important.
- In order to reach out large number of people, the scope and objective of the people should be translated into local languages.

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Aanchal Kapur is founder and team leader of KRITI: a development research, praxis and communication team in New Delhi. The KRITI team serves as a development support organization on social issues and human rights. Aanchal has been working in social development for over two decades as a facilitator-trainer, researcher and communication specialist. She holds a Masters in Political Science from Jawaharlal Nehru University and a MSc. in Development Studies, from the London School of Economics and Political Science.

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## Forum Publications

Books and Reports

- Water Conflicts in India: A Million  Revolts in the Making (Routledge)
- Life, Livelihoods, Ecosystems, Culture, Entitlements and Allocations of Water for Competing Uses
- Water Conflicts on India: Towards a New Legal and Institutional Framework
- Linking Lives-Reviving Flows: Towards Resolving Upstream Downstream Conflicts in Chalakudy River Basin.
- Water Conflicts in Odisha: A Compendium of Case Studies
- Floods, Fields and Factories: Towards Resolving Conflicts around Hirakud Dam
- Agony of Floods: Floods Induced water Conflicts in India
- Water Conflicts in Northeast India: A Compendium of Case Studies
- Conflicts around Domestic Water and Sanitation: Cases, Issues and Prospects
- Drinking Water and Sanitation in Kerala: A Situation Analysis
- Reform Initiatives in Domestic Water and Sanitation in India
- Right to Water in India: Privileging Water for Basic Needs

## Policy Briefs

- Water Entitlements and Allocations for Basic Needs, Environment, Livelihoods and So cio-cultural Needs: a Framework for Preventing and Managing Water Conflicts
- Towards a New Legal and Institutional Framework around Water: Resolving Water Conflicts in Equitable, Sustainable and Democratic Manner
- Resolving Upstream-Downstream Conflicts in River Basins
- Right to Sanitation: Position Paper of Right to Sanitation Campaign in India
- City Makers and WASH: Towards a Caring city
- Sanitation Rights and Needs of Persons with Disabilities
- Adivasis and Right to Sanitation
- Right to Sanitation: A Gender Perspective
- Dalits and Right to Sanitation

## The Forum and Its Work

The Forum (Forum for Policy Dialogue on Water Conflicts in India) is a dynamic initiative of individuals and institutions that has been in existence since 2004. Initiated by a handful of organisations that had come together to document conflicts and supported by World Wide Fund for Nature (WWF), it has now more than 300 individuals and organisations attached to it. The Forum has completed two phases of its work, the first focussing on documentation of various conflicts, which also saw the publication of 'Water Conflicts in India: A Million Revolts in the Making', and a second phase where conflict documentation, conflict resolution and prevention were the core activities. Presently, the Forum is in its third phase where the emphasis is on backstopping conflict resolution. Apart from the core activities like documentation, capacity building, dissemination and outreach, the Forum is intensively involved in right to water and sanitation, agriculture and industrial water use, environmental flows in the context of river basin management and conflicts around groundwater as part of its thematic work. The Right to water and sanitation component is funded by WaterAid India. Arghyam Trust, Bangalore, which also funded the second phase, continues its funding for the Forums work in its third phase.

## The Forum's Vision

The Forum believes that it is important to safeguard ecology and environment in general and water resources in particular while ensuring that the poor and the disadvantaged population in our country is assured of the water it needs for its basic living and livelihood needs. The Forum is committed to the core values of equity, environmental sustainability, efficiency, livelihood assurance for the poor and democratisation.

## The Forum's Mission

The Forum's mission is to influence policies and actions at all levels and work towards resolving, and preventing water conflicts in an environmentally and socially just manner, and creating awareness for achieving participatory, equitable, and sustainable water use. The Forum aims to carry out these through stakeholder interactions, knowledge creation, policy advocacy, training, networking and outreach.

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