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Institute for Natural Resources in Africa

COUNTRY REPORT - INDIA

REVIEW OF THE STATUS OF THE
DOMESTICATION OF THE
HUMAN RIGHTS TO WATER
AND SANITATION, AND
MEASURES TO LNOB IN WASH
IN EIGHT COUNTRIES IN
AFRICA, ASIA AND THE PAN-EU-
ROPEAN REGION.



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FOREWORD

Ironically, the 10th anniversary of the recognition of the Human Rights to Water and Sanitation (HRWS) (UNGA Resolution 64/292, 28th July 2010), coincided with the outbreak of the COVID-19 pandemic which requires access to sufficient water for regular handwashing and hygiene as a critical preventive measure. It also coincides with five years after world leaders committed to achieving targets 6.1 and 6.2 within the framework of the United Nations Sustainable Development Goals (SDGs). The synergies between SDG 6 and other SDGs call for urgent actions as the achievement of this goal will contribute to poverty reduction, good health and wellbeing, education, gender equality, and the reduction of inequalities among societies.

However, billions of people globally still lack access to safely managed drinking water, sanitation services and basic handwashing facilities. In particular, vulnerable and marginalised groups such as persons with disabilities, the elderly, children, women, homeless people, migrants, LGBTQ, etc. suffer various forms of discrimination and are being left behind in accessing water and sanitation services. To facilitate the realisation of the HRWS and Leave No One Behind (LNOB) in accessing safely managed water and sanitation services, urgent action is needed from all relevant WASH stakeholders at local, sub-national and national levels. Knowledge of the progress made by different countries in integrating and implementing HRWS principles is essential for devising targeted interventions in the WASH and related sectors. Providing development partners and other stakeholders with information on various LNOB groups and identifying reasons why they are left behind in WASH service provision is critical for sustainable development.

The Water Supply and Sanitation Collaborative Council (WSSCC), in collaboration with the Office of the United Nations High Commissioner for Human Rights (OHCHR), the World Health Organisation (WHO) and the United Nations Economic Commission for Europe (UNECE), contracted the United Nations University Institute for Natural Resources in Africa (UNU-INRA) to coordinate a review of the status of the domestication of HRWS in eight countries in Africa (Kenya, Mali, Nigeria, Uganda), Asia (India, Nepal) and pan-European region (France, Serbia). The respective national reviews were conducted by eight national experts from the sample countries under the technical leadership of the UNU-INRA team led by Fatima Denton, Director, with support from Gifty Ampomah and Gerald Forkuor of UNU-INRA. Further support was provided by Raya Marina Stephan, Japheth Mativo Nzioki and Lina Taing as part of a research co-ordination team. Enrico Muratore Aprosio, WSSCC Technical Expert -Leave No One Behind/Equality and Non-Discrimination/Gender, project manager, ensured the overall technical supervision of the research project. Barbara Mateo, LNOB consultant and technical editor, provided invaluable support both in her extensive commentary and in identifying gaps in the project findings. James Wicken and Rockaya Aidara also provided support from WSSCC. The project also benefitted from the technical review and assistance of Rio Hada (OHCHR), Diane Guerrier and Valentina Paderi (UNECE) and Fiona Gore (WHO).

The national reports offer insights on left behind populations, their level of access to WASH and factors affecting their exclusion from intrinsic rights to water and sanitation. Existing institutional mechanisms and how various stakeholders collaborate in providing WASH services to hard-to-reach populations are elaborated. Recommendations on the role of different stakeholders - duty bearers, rights holders, development partners, civil society organisations, etc. – and the capacities needed to reach LNOB groups and facilitate the realisation of HRWS are provided. Best practices from the sample countries which can be replicated in other countries are showcased. These are complemented with highlights on existing opportunities for further programmatic ideas and implementation of activities. The consideration by countries of these recommendations, opportunities and best practices can contribute to accelerated efforts towards the realisation of HRWS and the achievement of SDG 6.

The national reports form the basis for developing a WASH LNOB manual intended primarily for use by United Nations Country Teams (UNCTs) in supporting efforts of countries in realizing the human rights to water and sanitation. The manual details how UNCTs, in collaboration with key policy, implementation and realization stakeholders they support, can facilitate the operationalization of a LNOB process in the WASH sector via a rights-based approach.

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I also thank UNU-INRA for giving me this challenging assignment, which has deepened my understanding of Human Rights to Water and Sanitation (HRWS). This study has reinforced my reasons for being engaged in the WASH sector. My sincere appreciation and profound thanks also go to Fatima Denton, Gerald Forkuor, Lina Taing and Hamid Mehmood for patiently reading my first draft and providing exhaustive comments, which helped me to prune the report to a more readable size and improved the rigour of the analysis so it best fulfils the overall purpose of the study. In addition, I am grateful to everyone who has directly and indirectly contributed to the writing of this report.

LIST OF ABBREVIATIONS

ADB	Asian Development Bank
AFPRO	Action for Food Production
AIDS	Acquired Immunodeficiency Syndrome
AISWA	All India Sex Workers Association
AKVO	Water in Esperanto
AMRUT	Atal Mission for Rejuvenation and Urban Transformation
APL	Above Poverty Line
APUSP	Andhra Pradesh Urban Services for the Poor
ASCI	Administrative Staff College of India
ASER	Annual Status of Education Report
ATREE	Ashoka Trust for Research in Ecology and the Environment
BC	Backward Class
BDA	Bombay Development Authority
BIS	Bureau of Indian Standards
BMGF	Bill and Melinda Gates Foundation
BPL	Below Poverty Line
CBGA	Centre for Budget and Governance Accountability
CEPT	Centre for Environmental Planning and Technology
CESS	Centre for Economic and Social Studies
CFAR	Centre for Advocacy and Research
CHD	Centre For Holistic Development
COVID	Coronavirus Disease
CPCB	Central Pollution Control Board
CPHEEO	Central Public Health and Environmental Engineering Organization
CPR	Centre for Policy Research
CRSP	Centre of Research and Strategic Planning
CSE	Centre for Science and Environment
CSO	Civil Society Organization
CSR	Corporate Social Responsibility
DAY-NULM	Deendayal Antyodaya Yojana-National Urban Livelihoods Mission
DDWS	Department of Drinking Water and Sanitation
DFID	Department for International Development
DICCI	Dalit Indian Chamber of Commerce and Industry
DM	District Magistrate
DPAP	Drought Prone Areas Program
DPSP	Directive Principle of State Policy
DUSIB	Delhi Urban Shelter Improvement Board
DWS	Drinking Water Systems
EMI	Equated Monthly Instalment
FANSA	Freshwater Action Network South Asia
FGD	Focus Group Discussion
FHTC	Functional Household Tap Connection
FICCI	Federation of Indian Chambers of Commerce and Industry

FY	Fiscal Year
GIWA	Global Interfaith WASH Alliance
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
GOI	Government of India
GP	Gram Panchayath
HADP	Hill Area Development Programme
HIV	Human Immunodeficiency Virus
HLPF	High-Level Political Forum
HMWSSB	Hyderabad Metropolitan Water Supply and Sewerage Board
HRWS	Human Rights to Water and Sanitation
HTWS	Himalayan Tribal Welfare Society
HUDCO	Housing and Urban Development Corporation Limited
ICAR	Indian Council of Agricultural Research
ICCFAI	International Conference on Corporate Finance and Accounting Industry
ID	Identification
IEC	Information Education Communication
IELRC	International Environmental Law Research Centre
IGIDR	Indira Gandhi Institute of Development Research
IHHL	Individual Household Latrine
IIT	Indian Institutes of Technology
IIYD	Indian Institute of Youth Development
IMIS	Integrated Management Information System
INR	Indian Rupee
IRC	International Water and Sanitation Centre, Netherlands
ISC	Institute for Sustainable Communities
ISEC	Institute for Social and Economic Change
ISO	International Organization for Standardization
ITC	India Tobacco Company Limited
JICA	Japan International Cooperation Agency
JJM	Jal Jeevan Mission
JMP	Joint Monitoring Programme
JNNURM	Jawaharlal Nehru National Urban Renewal Mission
JNU	Jawaharlal Nehru University
KFW	Kreditanstalt fuer Wiederaufbau
KILA	Kerala Institute of Local Administration
LGBTQI	Lesbian, Gay, Bisexual and Transgender, Queer, Intersex communities
LNOB	Leave No One Behind
LPCD	Litres per Capita per Day
MAM	Mutual Accountability Mechanisms
MARI	Modern Architects for Rural India
MDWS	Ministry of Drinking Water and Sanitation
MHRD	Ministry of Human Resource Development
MIS	Management information system
MLD	Million Litres per Day
MOSPI	Ministry of Statistics and Programme Implementation
MPLAD	Members of Parliament Local Area Development

NACDAOR	National Confederation of Dalit Organizations
NCDHR	National Campaign on Dalit Human Rights
NFHS	National Family Health Survey
NGO	Non-Governmental Organization
NHRC	National Human Rights Commission
NIF	National Indicator Framework
NITI Aayog	National Institution for Transforming India Aayog
NIUA	National Institute of Urban Affairs
NRWDP	National Rural Drinking Water Programme
NSAP	National Social Assistance Programme
NSTFDC	National Scheduled Tribes Finance and Development Corporation
NTPC	National Thermal Power Corporation Limited
NULM	National Urban Livelihoods Mission
ODF	Open Defecation Free
OHCHR	Office of the High Commissioner for Human Rights
ONGC	Oil and Natural Gas Corporation
PDS	Public Distribution System
PESA	Panchayats (Extension to Scheduled Areas) Act
PIL	Public Interest Litigation
PLHIV	People living with HIV
PMAY	Pradhan Mantri Awas Yojana
PMKSY	Pradhan Mantri Krishi Sinchayee Yojana
PRIA	Participatory Research in Asia
PWD	Persons With Disabilities
RO	Reverse Osmosis
SAARC	South Asian Association for Regional Cooperation
SACOSAN	South Asian Conference on Sanitation
SAFP	Saathi All For Partnerships
SASEC	South Asia Sub-regional Economic Cooperation
SBM	Swachh Bharat Mission
SC	Scheduled Caste
SDG	Sustainable Development Goals
SHG	Self Help Group
SKA	Safai Karmachari Andolan
SMS	Short Message Service
SOPPECOM	Society for Promoting Participative Ecosystem Management
SSA	Sarva Shiksha Abhiyan
ST	Scheduled Tribes
SUH	Shelter for Urban Homeless
SVYM	Swamy Vivekananda Youth Movement
SWA	Sanitation and Water for All
TG	Trans-gender
TSC	Total Sanitation Campaign
UN	United Nations
UNAIDS	United Nations Programme on HIV and AIDS
UNDP	United Nations Development Programme

UNGA	United Nations General Assembly
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNPFA	United Nations Population Fund
UNRC	United Nations Resident Coordinator
US	United States
USAID	United States Agency for International Development
VNR	Voluntary National Review
VWSC	Village Water and Sanitation Committee
VYK	Vishwa Yuvak Kendra
WASH	Water, Sanitation and Hygiene
WASMO	Water and Sanitation Management Organisation
WASSAN	Watershed Support Services and Activities Network
WB	World Bank
WBG	World Bank Group
WFP	World For People
WHO	World Health Organization
WNTA	Wada Na Todo Abhiyan
WSSCC	Water Supply and Sanitation Collaborative Council

EXECUTIVE SUMMARY

The Government of India is a signatory to UNGA's resolution (July 2010) on Human Rights to Water and Sanitation (HRWS) and the Sustainable Development Goals 2030, which 'seek to realize the human rights of all'. As part of the UNU-INRA study, the status of the integration of HRWS into the legal and policy framework and progress made in accessing WASH for LNOB groups in India has been assessed. Online responses to a questionnaire, one-to-one interviews with experts and practitioners from different sector stakeholders, FGDs with eleven categories of vulnerable groups and a critical review of legal and policy documents and progress reports issued by the national and sub-national governments formed the basis for the study's findings. Travel restrictions, busy schedules related to the COVID response and a lack of reliable data on HRWS-tracking has limited the data collection and analysis for this report.

Since signing the UN Resolution on HRWS, India has not launched any specific initiative to recognize water and sanitation explicitly as legal rights, nor are these specifically mentioned among the fundamental rights guaranteed by the Constitution of India. However, in several cases where justice has been sought, India's apex courts have interpreted water and sanitation rights as being included in the principle of the 'right to life'. In line with this, the National Water policy also gives a high priority to water for drinking and domestic needs in water allocations. However, addressing issues of social equity and justice in distributing water remains a distant goal.

Special laws have been passed to protect the educational rights of children, persons with disabilities, SC, ST communities, etc., indirectly protecting the rights to water and sanitation to the extent that they are integral to the principal purpose of the respective pieces of legislation. Low or no tariffs, incentives and subsidies for water and sanitation facilities to households and communities are being pursued as an integral part of the government's approach to welfare. National flagship programmes, particularly SBM and the Jal Jeevan Mission, emphasize the active engagement of communities, and progress has been made in implementing these programmes. However, marginalized and vulnerable communities remain passive recipients of services, not being sufficiently empowered as rights holders to demand accountability for the commitments to WASH made by the government.

Water and sanitation have evolved to become subjects of high importance in national development plans. Budgetary allocations have significantly increased, and current national flagship programmes on water and sanitation (SBM, JJM) have incorporated major emphases on inclusion, gender and social equality. For a variety of reasons, including the pressure of ambitious national targets, the provisions made under SBM phase I to meet the special WASH needs of vulnerable communities were ignored or not given sufficient attention. Addressing these gaps is accordingly one of the major focus areas under SBM II. While progress has been made in providing WASH services to all, disparities continue to exist between rich and poor, socially advantaged and disadvantaged, and urban and rural communities. Data collection and monitoring systems are not strong and need to be aligned to allow tracking and accounting for the progress with WASH achieved for vulnerable communities.

One recommendation of this study is that organizations committed to the HRWS should engage collectively and support advocacy and social mobilization in order to create a political commitment to recognize the HRWS as part of India's legal framework. Learning from past movements that se-

cured rights through special laws (Acts on the rights to information, education, food, employment and the prohibition of manual scavenging) passed by parliament should be used to build the political demand for the HRWS. International organizations, including UN organizations, should focus on funding CSO advocacy in building a strong popular mobilization to demand the HRWS. JJM, SBM, AMRUT and other major WASH programs should be induced to include special provisions, dedicated budgets and monitoring indicators to track and account for equitable and inclusive progress with WASH. The COVID-19 pandemic has not only highlighted the significance of WASH for public health, but also demonstrated the need to promote a rights-based approach to address the disparities and inequalities in making progress with WASH.



1. INTRODUCTION

The COVID-19 pandemic has demonstrated the greater need and provided the contextual relevance to review progress with the national-level integration of the HRWS in India. The pandemic has brought the significance of safe water, sanitation and hygienic practices in protecting public health to the attention of the global community. In the context of COVID-19, the bar for the adequacy and quality of services has become higher than ever before. However, not everyone in Indian society, particularly the poor and vulnerable communities, can afford to pay for the increased demand in services, which also challenges the utilities to ensure equitable services during the pandemic. Thus, the emerging situation in the current context has raised the need and relevance for recognizing and pursuing a human rights-based approach to the provision of water and sanitation services. In constituting a case study, India has provided an excellent opportunity to analyse the high-level political commitment to the HRWS, the ways it has been put into practice and how it has contributed to ensuring equitable and inclusive water and sanitation services for everyone in India.

1.1. Overview of WASH, the HRWS and LNOB in India

Since Indian independence in 1947, successive governments have made repeated efforts to improve the availability of potable water and the provision of safe sanitation.

Rural sanitation. The government implemented its first nationwide sanitation initiative, the 'Central Rural Sanitation Programme', in 1986 to 1999, with a provision for an 80% subsidy for the construction of household toilets by families below the poverty line (BPL). This was followed by the Total Sanitation Campaign (TSC) (2001 to 2012) and Nirmal Bharat Abhiyan (2012 to 2014). The Swachh Bharath Mission (SBM) Clean India Mission, launched on 2nd October 2014 with the aim of making India 100% open defecation free (ODF), has made stunning progress, as the overall coverage of households with an individual household toilet (IHHL) jumped from 38.7% on 2nd October 2014 to almost about 100% on 2nd October 2019, leaving just a few gaps in reaching the last-mile segments. Since the launch of SBM in 2014, more than 100 million toilets have been built, and 26,734 gram panchayats (local government bodies in rural India) have declared they have achieved ODF status.¹⁻³ However, gaps in toilet coverage for people living in vulnerable conditions for physical, social, economic and geographical reasons, anomalies in the quality of construction and maintenance, and regular usage ensuring safe management of the waste accumulating in the toilet containers etc. still remain as challenges.

Rural water supply. Implementation of an accelerated Rural Water Supply Programme in 1972 and a National Rural Drinking Water Programme (NRDWP, 2009) have made good progress in improving water supply services. Now under 50% of India's population still lack access to safe drinking water. Fluoride and arsenic contamination is present in the drinking water used by 1.96 million dwellings. Two-thirds of India's districts (718 districts) are affected by extreme levels of depletion in sources of ground and surface water.⁴ Subsequent programmes under NRWDP have improved progress, and as of 31st March 2019, out of a total reported 17,25,576 rural habitations, 80.92% are fully covered if a 40 lpcd service level is applied, and the coverage is 47.26% if 55 lpcd is applied as the service level benchmark.⁵ After achieving remarkable success in becoming ODF, the government has geared itself up to address water-supply issues and launched a new nationwide flagship programme called the 'Jal Jeevan Mission' (JJM) (Water for Life Mission). JJM aims to provide every rural house-

hold with a functional household tap connection (FHTC) by 2024 and to supply adequate quantities of water at a prescribed quality and at an affordable service cost. The online dashboard of JJM-Har Ghar Nal Ka Jal (an FHTC for every household) shows that out of a total 189.33 million households, 25.07% already have a household tap connection, while the remaining 74.93% are targeted to be reached by 2024.⁶

Urban water and sanitation. The status of urban water supply and sanitation reveals a grim picture, with 29.4% of the urban population lacking access to a piped water supply and about 20% of the population not having a toilet facility at home and not being connected to any sewer line.⁷ However, implementation of SBM (urban) since 2014 has made great strides in sanitation. The dashboard of the Ministry of Housing and Urban Affairs (MoHUA) indicates that, out of a total of 4372 urban authorities, 4324 (99%) have self-declared ODF status. SBM (urban) has made good progress in achieving garbage-free cities and promoting the sustainable management of solid waste, but the sustainable management of infrastructure and the equitable distribution of services remain major challenges.

WASH in schools. The Right to Education Act of 2009 and SBM's school component has boosted coverage of drinking-water facilities to 69%, basic sanitation to 73% and hygiene services to 54%.⁴ However, maintaining these improved WASH facilities in schools continues to be a major challenge. As improving WASH in schools also extends to menstrual hygiene management (MHM), some states have introduced special initiatives to promote awareness and education and provide sanitary pads in schools.

Key WASH Sector Players

Government. Key players in the government are arranged in a three-tier structure: (1) the Union (national) level; (2) state level; and (3) local self-governing bodies. Under the constitution, water is a state responsibility, but the Union government allocates resources to centrally sponsored water-supply and sanitation schemes and programmes (e.g. SBM, the Jal Jeevan Mission). (1) At the national level, the 'Ministry of Jal Shakti' anchors two major flagship programmes, viz. the JJM, targeted to provide 100% tap connections to all households; and the SBM, which focuses on ODF sustainability and changes in sustained behaviour in the provision of safe sanitation, gaps in toilet coverage for LNOB, and solid and liquid waste management, including grey waters and faecal sludge management. (2) At the state level, there are nodal ministries and dedicated departments for planning and implementing water-supply and sanitation programmes. (3) The panchayats in rural areas and municipal corporations in urban areas are the local self-governance bodies at the village and municipality levels respectively that implement WASH programmes. The 73rd and 74th constitutional amendments, passed by the Union Government in 1993, empowered these bodies to manage, within their jurisdiction, the list of subjects specified in Schedule 11 (for panchayats) and schedule 12 (for urban bodies) of the Constitution of India that cover water and sanitation, with devolution of finances. The National Institution for Transforming India (NITI Aayog), a major government policy think tank, provides policy inputs and relevant technical advice, and reviews and monitors the Sustainable Development Goals (SDGs) at both the centre and state levels.⁸ It also takes the lead in preparing and presenting the Voluntary National Review (VNR) reports, maintains a dashboard for reviewing the progress of the states up to the district level, pilots innovations in aspirational districts and develops composite indexes for SDGs. The Ministry of Statistics and Program Implementation (MOSPI) has developed a National Indicator Framework (NIF) to monitor the progress of the SDGs

and associated targets. The NIF scientifically measures the outcomes of the policies to inform the Union government about the progress being made to meet the targets and advise on mid-course corrections. MOSPI works closely with NITI Aayog. The Central Public Health and Environmental Engineering Organisation (CPHEEO) is the technical wing of MoHUA, which supports policy formulation and aids the states with technical support to water supply and sanitation.

Other WASH players. Players outside the government include the World Bank, ADB, JICA and Afd, which have all made significant contributions to increasing governments' capacity to fund water and sanitation infrastructure programmes. They contribute in the areas of sector reforms, capacity-building and knowledge management in the WASH sector. Bilateral and international donors have also continuously provided grant support and technical assistance to the governments and civil-society organizations (CSOs) in implementing water and sanitation projects. UN organizations like UNICEF and WSSCC are helping drive the agenda of HRWS and achieving LNOB, while international NGOs such as WaterAid, Sanitation and Water for All (SWA), the Bill and Melinda Gates Foundation (BMGF), Water for People (WFP), Plan International etc. are supporting governments at the sub-national levels in their efforts to achieve progress with WASH and to engage in evidence-based advocacy. Though civil-society organizations have limited the scale of their interventions, their contribution is valuable in innovating new solutions, thus demonstrating the significance of people's participation and building scalable strategies for it, advocating equitable progress and lending support to local service-delivery agencies. The Human Rights Advocacy and Research Foundation, the Right to Sanitation Campaign, Wada Na Thodo Abhiyan, Safai Karmachari Andolan and the Forum for Water Conflicts are among the common platforms CSOs use to advocate water and sanitation rights nationally, and similar platforms exist in different states as well. Philanthropies established by major business houses like Tata Trusts, Azim Premji and Arghyam are contributing to progress with WASH in the country. In 2014, the Union government amended the Companies Act to facilitate significant volumes of CSR funding to the WASH sector with projects directly implemented by companies or through other CSOs. Swachh Bharat Kosh, established by the Union government to raise donations for SBM, has received considerable funding (INR 5500 million up to July 2017) from the public sector and corporate business entities as part of their CSR programmes.

LNOB Groups and Categories, and the Status of Integration of HRWS

Historical caste-based stratification has led to exploitation and a denial of equal opportunities to the population categorized under lower castes. Because of this deep-rooted historical discrimination, certain caste groups are recognized by the national government as Scheduled Castes (SCs), Scheduled Tribes (STs) and Backward Castes (BCs). The SC/ST classification establishes special constitutional rights and reservations to bring these groups up to par with elites and upper castes in society, including numerous social welfare and compensatory provisions embedded in the Constitution of India and other laws and programmes. Similarly, certain populations have been marginalised for various reasons, including sex workers, people living with HIV, LGBTQI, manual scavengers and sanitation workers, women and adolescent girls, the elderly, migrants, the urban poor, shanty dwellers, the homeless and people with disabilities etc., reaching whom requires additional resources and innovative approaches. Recognizing these vulnerable groups and making provision for their welfare and development is an inherent part of India's system of governance and culture. Some of the key vulnerable groups, along with their populations, are listed in Annexure 1.

HRWS integration. India is one of the signatories to UN Resolution 64/292, adopted in July 2010

and recognizing the HRWS. However, there is no evidence of any planned approach designed to implement or practice the HRWS at the national or sub-national levels. The rights to water and sanitation are not explicitly stated in India's constitution or in any of its laws. Human rights principles received major consideration from the architects of the Indian Constitution, and the whole section on fundamental rights is embedded in the principles and philosophy of human rights, the state being made accountable for respecting and protecting them. The Constitution also created an independent judicial system sufficiently empowered to protect these fundamental rights and deliver justice when an individual's human rights are violated. The implementation of human rights in India can broadly be seen in two ways. One is to pass special laws, for example, the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013. Secondly, human rights principles can be incorporated



into development plans, and human rights policies into flagship programmes. There are a number of cases where the Supreme Court of India and the High Court have interpreted the right to water as being included under Article 21 of the Constitution, which recognizes the 'Right to protection of life and liberty'. An ordinance issued by the President of India in September 1993 set up a National and State Human Rights Commission, though this was replaced by the Protection of Human Rights Act of 1994, enacted by the Parliament of India. The main objective of the Act was to improve the protection of human rights relating to freedom, life, liberty and dignity as guaranteed by the constitution, also being embodied in international covenants enforceable by the courts of India. There are several cases in which Human Rights Commissions have issued notices to state governments regarding the denial of water services to individuals and communities, but they are constrained by a lack of resources and capacities to expand their services. Grievance mechanisms established by service providers (e.g. Water Supply Boards, municipalities), administrative systems for registering complaints with the higher authorities of the government and appeals to the courts, including public interest litigation, are the legal means available for an individual to defend implicit rights and entitlements related to water and sanitation.

1.2. Overview of Assignment

A report on 'The status of the domestication of Human Rights to Water and Sanitation (HRWS), and measures taken to achieve and track progress in access to WASH by women and girls and those in vulnerable situations', initiated by WSSCC and led by the United Nations University Institute for Natural Resources in Africa (UNU-INRA), is simultaneously reviewing HRWS domestication in eight countries in Africa, Asia and the pan-European region (specifically, Kenya, Uganda, Mali, Nigeria, India, Nepal, France and Serbia) to understand the various issues and learn lessons from integrating the HRWS. The output of the study is expected to benefit national governments and sector partners in helping them understand the status of HRWS integration into existing policies and programmes,

the challenges in realizing the HRWS, and possible measures to integrate it into the current context. The report also provides information on the status of various vulnerable groups, their access to WASH services, constitutional and legal provisions under which services can be demanded, and how to mainstream equitable and universal access to WASH services, duly documenting the best practices for South-South cross-learning and sharing.

This report is organized into six chapters, the introduction being the first chapter, giving an overview of the WASH sector, key players from government, LNOB groups and their status in integrating the HRWS in India. The second chapter describes data collection and analysis, with specific details of the methods of data collection, analytical framework and limitations. Chapter three analyses the factors affecting the integration of the HRWS, while the fourth chapter analyses its domestication in India in terms of national legislation, policies, strategic development plans, regional and international instruments, the status of WASH provision to LNOB in terms of achieving the HRWS principles, and the obligations of other organizations in contributing to the process of domesticating the HRWS. Chapter 5 focuses on gaps and challenges, while the sixth and final chapter provides a detailed list of recommendations for integrating the HRWS, reaching LNOBs and thus achieving universal access to WASH in India.



2. METHODOLOGY

2.1. Data Collection Methods

This section briefly covers the methods and techniques used in the process of data collection and analysis in this study. The methods used to collect information from various categories of stakeholder groups and the techniques used have been briefly described already. The unprecedented COVID-19 situation has led the study to adopt new methods of collecting information using online platforms.

1. **Desk review and secondary data collection.** The HRWS in India has a long history and has necessitated an in-depth desk review digging more deeply into constitutional rights, questions raised in parliament regarding the HRWS and Supreme Court judgements against the public litigation interests (PILs) concerning the HRWS. The desk review also involved perusing the websites of the Union and State governments, particularly those of the relevant ministries.
2. **Questionnaires.** 75 individuals representing different levels of government, UN organizations, international NGOs, CSOs, individual WASH experts, lawyers and activists were identified and requested to fill in a questionnaire via e-mail. However, due to COVID-related constraints, only twenty individuals replied, their responses being analysed.
3. **Telephonic and skype interviews.** In addition to the input through filled in questionnaires, one to one interviews were conducted online, and input to the study was collected from a total of twelve key informants. A list of the interviewees is provided in Annexure-2
4. **Group consultations.** Support from CSO organizations and networks working for specific LNOB groups were leveraged to conduct FGDs, which included a total of 154 members belonging to eleven categories of LNOB groups from nine states of India. Details of the group consultations are given in Annexure 3.

Key Informants, Stakeholder Mapping and Categorization:

To understand the perspectives of different stakeholders and organizations working in the WASH sector, key informant mapping was performed, and the following categories of respondents were listed as important categories:

- a. **Government functionaries** (engaged in and knowledgeable about the processes and initiatives in integrating the HRWS into legislation, policy, programme implementation and monitoring)
- b. **UN organizations** (working with government bodies to provide capacity-building support and develop guidelines in implementing national and state programmes)
- c. **International NGOs** (involved in funding, piloting, capacity-building and reviews of the WASH initiatives of the central and union governments)
- d. **Civil-society organisations** working on the WASH issues of LNOB groups (evidence-based advocacy, working closely with communities, and facilitating representation of their issues with government)
- e. **Individual WASH experts** (domain knowledge)
- f. **Lawyers and activists** working on human rights issues (legal provisions, policy implications etc.)
- g. **LNOB groups** (representing and articulating their WASH issues with various levels of decision-makers in the governance system)

From the above categories of stakeholders, 75 respondents were selected for collection of the primary data. A detailed list of respondents along with the organizations representing them is attached as Annexure 4.

Challenges and Limitations of the Study.

1. Online consultation. COVID-related mobility restrictions and travel protocols made face to face interactions very difficult, and the consultations were limited primarily to online contact, which was not found to be equally comfortable to all the selected participants.
2. Low response rate. The timeline for consultation further limited the participation of some stakeholders, especially from the government agencies concerned. Since there has been a change in leadership at the highest level of the Ministry of Jalshakthi, the response was very low, its representation limited.
3. Inconsistent government data. Various datasets posted at different points in time by different government agencies lack consistency and comprehensiveness, meaning that it was not possible to cross-verify with the officials concerned and fill in data gaps or missing information.



3. FACTORS DRIVING THE CHANGE TO HRWS

Based on the conceptual framework designed for the purposes of this study, four types of factors – historical and cultural, geographical and climatic, socio-economic and demographic, and governance – were identified which could influence the realization or deprivation of the HRWS.

3.1. Historical and Cultural

Caste-based professions. The emergence of manual scavengers or Halalkhors as a caste-based profession in the Dalit community can be traced back several centuries in Indian history. The discrimination that is associated with certain castes has been deep-rooted in society, affecting progress even today, as attitudes and changes in behaviour in favour of these castes is still subject to bias. **Historical practice of open defecation.** Defecating in the open continues to be a widespread and accepted practice, indulged in by the great majority of people in Indian society, regardless of social, educational or economic background. In many rural and tribal areas, there is a strong belief that the traditional practice of open defecation, located far from one's habitation, is safer than defecating in a toilet at home. **Discrimination.** Certain sections of the population are subjected to multiple processes of marginalization due to their caste, gender, age, physical disability, educational level

etc. Most often these communities also suffer from ignorance of and a lack of faith in the concepts of citizenship, democracy and equality before the law. This results in their only weakly asserting their demand for services. Stigma. There is a strong element of cultural rejection and stigma against LGBTQIs and sex workers, who are subjected to humiliation and discrimination, making it very challenging for these communities to assert their rights. Domination by upper castes and elites. The hierarchy of the caste system provides elites and the so-called upper castes with a stronger voice, the voices of vulnerable communities being suppressed. For example, SCs, STs and women sit on Village Water and Sanitation Committees (VWSCs), local-level decision-making bodies, but their participation is limited due to a deep-rooted culture of silence and a lack of capacity to resist domination by the upper castes.

3.2. Geographical and Climatic

Hilly and rocky terrains and remote areas. A large number of villages or settlements located in the hilly and rocky terrain of northern and northeast India and forest areas of the Western and Eastern Ghats have problems with road connectivity and therefore in transporting materials to construct toilets and piped water schemes, thus limiting their progress. Shallow water tables and sandy soils. India has a long coastline of 7516 kilometres touching thirteen states and union territories, with a large number of settlements inhabited by fishermen, small-scale and marginal farmers and other vulnerable communities. Shallow water tables and loose sandy soils in coastal areas pose challenges such as the high cost of toilet construction, the low life spans of structures and suitable and affordable technologies. Due to acute shortages of land in coastal cities, the poor and vulnerable are pushed into areas exposed to the pressure of sea waves, or to marshy lands where it is difficult to introduce functioning toilets. Exploitation of groundwater. Indiscriminate extractions of groundwater and depletion of natural resources has led to a drought and water crisis, adversely affecting progress in providing water supplies and sanitation. Groundwater extraction in India is totally free, and is a problem further exacerbated by the provision made by several state governments to supply power for free to extract water for agricultural use. This has resulted in the over-exploitation of groundwater, amounting to 24% of global extraction.⁹ Climate change. Climate variations have increased the frequency and intensity of floods and cyclones in coastal areas, causing devastating impacts on all kinds of infrastructure, including water and sanitation. Inundation of water into toilet containment systems is also causing contamination of groundwater sources. In May 2020 the recent super cyclone Amphan hit the coastal states, and West Bengal state alone reported that it had affected thirteen million people and damaged 1.5 million houses, including damage to water and sanitation infrastructure. Thousands of people housed in cyclone shelters face a crisis in the provision of safe water, sanitation and hygiene facilities.



3.3. Socio-economic and Demographic

Population density. The fact that India is home to 16% (1.37 billion) of the world's population but only has 4% of the world's water sources explains the demographic pressure on water and sanitation services in the country. Due to rapid urbanization and the population explosion, without any exception, every city in India is drawing huge quantities of water from far-off river streams and lakes, depriving rural populations of water for their living and livelihood needs. This has also triggered several conflicts over water-sharing between different states. For a variety of reasons (damaged pipelines, congested housing, low levels of sanitation, inability to pay for household connections etc.), urban slums receive far less water than other, economically better-off areas, and sanitation is always a problem. **Economic disparities and affordability.** To cope with water-supply shortages, the richer population segments can pay for multiple tap connections, booster pumps to suck water from the low-pressure pipelines, private bore wells and tanker supply etc., all of which are beyond the affordability of the vulnerable communities living in slums. The poor are forced to buy bottled water and also to pay connection charges and monthly water tariffs, making it difficult for the poor to afford. Similarly, sanitation services require recurrent operation and maintenance costs. **Changing lifestyles.** Changes in lifestyle and aggressive consumerism have led to quantities of waste being multiplied. This has created a new class of workers engaged in rag-picking and door-to-door waste collection, which is mostly taken on by marginalized communities migrating to urban areas in search of livelihoods. In most cities households pay them monthly collection charges, but they receive no salaries from municipal bodies. Exposure to high health risks in the absence of health insurance and social security measures, exploitation by scrap vendors and child labour are among the key issues affecting the lives of vulnerable families engaged in waste collection.

3.4. Governance

Political integrity and robust accountability mechanisms. Water has always been one of the most contested but also most highly prioritized issues in India's electoral politics at the national, state and local levels. However, the lack of mechanisms to measure integrity and accountability lead to inefficient use of financial resources and technical knowledge in achieving equitable and sustainable progress with WASH. Decision-making power related to the augmentation and distribution of water resources is entirely vested in the hands of elected representatives and bureaucrats, traditional community water-management systems being broken or weakened. Communities' relations with governments are reduced to the status of the former being merely the recipients of 'water' freebies, and their ability to question the decision-makers has been diluted, making them feel like 'service givers' rather than duty bearers accountable to the rights holders in society. Infrastructure creation versus environmental degradation. Strategies for improving water supplies have been dominated by the creation of infrastructure, the environmental costs of this being ignored to a great extent, and as a result the gains are very short-term, and there is a perpetual search for sustainable solutions. There are examples in India of the ecological concerns and livelihood rights of marginalized communities being compromised by the government, so that the courts had to clear large water infrastructure projects under the pretext of fulfilling basic water needs and the human right to water. **Coordination and competing demand.** Decentralized community-led approaches to water and sanitation are insignificant compared to the scale of the demand for water and sanitation services. The country's political leadership has allowed and nurtured an irrational increase in the demand for

water in all sectors (urban water supply, irrigation, industry, etc.), but there is a serious deficiency in efforts to launch an inter-sectoral approach to achieve a balance between the demand for and availability of water resources. In this scenario of competing claims, the water rights of powerless vulnerable communities are being ignored. Control over the operations of private players. From a system of common public service institutions (markets, schools, hospitals, water utilities, etc.), India has gradually moved towards a situation in which the role of the private sector has become significant. The rich and powerful in society are paying to access services, while the poor and vulnerable are compelled to continue depending on the lower quality of services from the public institutions. Informal settlements and non-recognized slums. Migration from rural to urban areas has led to the creation of a large number of informal and illegal settlements, inhabited by more than 100 million people in the country. Many of these informal settlements have been built in lands owned by defunct water bodies, where loose soils and water-logging are impediments to toilet construction. Twin (leach) pit toilets constructed in such geographical areas are also collapsing, due to which people are compelled to fall back on the practice of defecating in the open. The role of local bodies of governance in providing WASH services. The 73rd Constitutional Amendment and Schedule 11 of the Constitution of India make village local bodies of governance responsible for providing basic services, including water and sanitation. In reality, however, Gram Panchayats (village governance bodies) act more as implementors for the mission mode programmes (e.g. SBM or Mission Bhagirtha, a drinking water programme in the state of Telangana) rather than pursue an independent, village-specific vision and mission towards achieving WASH progress for all. Even the implementation role is quite heavily controlled by bureaucratic systems of controls, checks and approval. Most of the Gram Panchayats have serious limitations in funding, human resources, technical capacities, locally usable micro-level data and robust systems for planning, delivering, maintaining and monitoring safe and adequate WASH services to the people. On the other hand, as governance institutions they come under direct pressure from local communities for the gaps in and failures of governance systems in delivering WASH services. Without addressing the resource and capacity constraints of the Gram Panchayats, it is clear that they will not be able to fulfil WASH commitments and obligations to local communities, including in respect of the HRWS. The 74th Constitutional Amendment and Schedule 12 of the Constitution assigned the power and responsibility for providing basic amenities, including WASH, to urban municipalities and municipal corporations in India. In terms of financial and human resources, these urban bodies are comparatively better than the Gram Panchayats. However, rapid population growth, the unplanned expansion of towns and cities, the creation of parastatals diluting the powers of urban local bodies, excessive state control, inequalities in the distribution of services, and the lack of robust systems for citizen involvement and accountability to the public are key issues limiting the performance of urban local bodies in fulfilling the WASH commitments.

Gender. Integrating gender into mainstream WASH programmes has been a challenge. Although the provisions for women in various schemes and programmes have been mentioned, practicing these policies and guidelines remain on paper only: for example, prioritizing women beneficiaries for cash incentives under SBM or token participation in VWSC meetings have never been fully realized. Gender budgeting, gender disaggregated data and equal participation in decision-making exist as development jargon, but in reality none of them can be witnessed or measured. In all the factors mentioned above, gender is a cross-cutting issue, and among all those who are discriminated against and denied resources, the majority of them are women, even within LNOB groups. Suppressed by the circumstances whereby intent is translated into practice, integrating a gender

approach into the strategies for achieving water and sanitation development has not received much attention for long. Targeting women in communications regarding behavioural change, nurturing women leaders, their engagement as agents of change, building women's skills, leveraging the strength of women's SHG networks to promote toilet adoption and micro-finance loans for toilet construction are important components that have contributed to asserting the role of women in making progress with sanitation. The lessons of these experiences could be leveraged to inspire more women to demand their rights.

Behaviour change. This is a very important factor that drives the HRWS and the approaches to reach LNOB. The functional behaviour of the political and bureaucratic system is as important as targeting changes to people's behaviour to adopt safe sanitation and hygienic practices. Though budgets are allocated for IEC activities, they are not being thoroughly targeted to reach different groups of people. For example, despite huge efforts to promote the segregation of dry, wet and hazardous wastes at source, the level of behavioural change is abysmal in Indian society, particularly in urban areas. Breaking the age-old practice of open defecation and ensuring the use of toilets by all still remains a big challenge, necessitating continuous investments of resources in behavioural change.



4. DOMESTICATION OF HRWS IN INDIA

4.1 Government Obligations

4.1.1. National instruments and Frameworks

Though India is consistently endorsing its support at the international level, within the country there is no law explicitly recognizing and promoting the HRWS. However, there are a significant number of case laws in which the national Supreme Court and sub-national High Courts have proactively interpreted water and sanitation as fundamental rights enshrined under Article 21 of the Constitution of India: 'No person shall be deprived of his life or personal liberty except according to a procedure established by law'.¹² Over the past few decades, the judiciary in India has provided a more holistic and progressive interpretation of the constitutional principles of the 'right to life'. For example, in several cases (e.g. *Maneka Gandhi v. Union of India*) the Supreme Court has held that 'Right to live with human dignity', and 'Right to basic human necessities' are integral to the meaning of the right to life. The right of access to pollution-free water and air (*Subhas Kumar v. State of Bihar*) and the preservation of the environment and sanitation for the full enjoyment of life have been held to fall within the purview of the fundamental right to life. In *M.C. Mehta v. Union of India* (1988), the Supreme Court ordered the closure of tanneries that were polluting water sources. The High Court of Bombay, in a case concerning a refusal to supply water to illegal slums (*Pani Haq Samiti v. Brihan Mumbai Municipal Corporation*, Bombay High Court, December 2014), explicitly disapproved of the policy of the municipal corporation as a violation of the fundamental human right to water. This suggests that the denial of a water supply to anyone, for any reason whatsoever, is a blatant violation of the fundamental right to water. Thus, the aspiration for explicit recognition of the right to water and sanitation as co-rights of the right to life and the actual application of this principle to real-life situations has gained considerable support through judicial activism in India. In this context, it is also important to note that, under Article 141 of the Constitution of India, the Supreme Court declared the law to be binding on all courts within the territory of India, meaning that cases decided by the Supreme Court shall be treated as final legal judgements binding future decisions by other courts in India. The judicial interpretation of the fundamental right to water imposed an obligation on the states not to interfere with the individual's exercise of that right. States should also take positive measures to promote the right to water being observed. Section IV of the Constitution of India contains non-justiciable, directive principles of State Policy (DPSP) that reinforce the spirit of the fundamental rights of the constitution. In upholding Article 47 of DPSP, the courts have ruled that states have the responsibility to improve the health of the public by providing unpolluted drinking water.¹³ There are also other laws in India directly or indirectly protecting and promoting the rights to water and sanitation of vulnerable communities in the country under the Right to Education Act, Factories Act, Construction Workers Employment Act, Transgender Person's Act, Scheduled Castes and Tribes Act, etc. Details of these acts are given in Annexure 5. All local governance bodies have a citizens' charter containing explicit commitments to provide services to people within their jurisdiction.

HRWS in Policies

A review of national policies indicated that the three most important national policies relevant to

the HRWS Are 1) the National Water Policy 2012, 2) the National Urban Sanitation Policy, and 3) the National Health Policy 2017.

1. **National Water Policy 2012.** There is no aim in the National Water Policy (2012) to promote the right to water. The formulation of water policy failed to integrate the spirit in which apex courts in India have interpreted the right to water. From that perspective it is pertinent to note that in all three water-policy documents (1987, 2002 and 2012) the priority given to water use places drinking water in the first place.²⁰⁻²² In the 1987 water-policy document, drinking water was accorded the first priority, being retained and reworded as 'domestic use of water' in 2002 and 2012. Further progress on this was made in 2012, and it is now referred to as 'prioritizing water use for drinking and domestic needs'. Under the basic principles, the policy states that 'safe water for drinking and sanitation should be considered as pre-emptive needs, followed by high priority allocation for other basic domestic needs (including needs of animals).' The 2012 policy also stated that the 'principle of equity and social justice must inform use and allocation of water' along with another important element: 'users' participation'. The policies reiterated that water rights are the necessary precondition for participation in the 'management' of water resources, setting up water-user associations and introducing trading in entitlements.²³ Water Policy 2012 also stated that 'good governance through transparent informed decision-making is crucial to the objectives of equity, social justice and sustainability'.

2. **National Urban Sanitation Policy 2008.** This policy also aims to ensure and sustain good public health and environmental outcomes for all citizens, with a special focus on hygienic and affordable sanitation facilities for the urban poor and women. This policy explicitly acknowledges the failure of state-sponsored programmes to reach the poor and has prioritized the provision of individual household toilets. The rating tool suggested in this policy is intended to measure the performance of cities in making improvements to sanitation. It also lists specific pro-poor parameters on: i) elimination of manual scavenging and provision of personal protection equipment for sanitation workers; ii) access to and use of individual and community toilet facilities by the urban poor and other unconnected households (including slums); iii) access to and use of toilets for floating populations by providing adequate public sanitation facilities; iv) planning by states to target subsidies to the poorest households, and at least 20% of the funds under the sanitation heading should be earmarked for the urban poor. It also emphasises the importance of participatory approaches in the planning and management of sanitation services.

3. **National Health Policy 2017.** The National Health Policy 2017 prioritizes addressing the primary health care needs of the urban population with a special focus on poor populations living in notified and non-notified slums, other vulnerable populations such as the homeless, rag-pickers, street children, rickshaw-pullers, construction workers, sex workers and temporary migrants. An important focus of the urban health policy is achieving convergence of the wider determinants of health, which includes better solid waste management, water quality, vector control, etc. Section 27 of the policy, setting out the legal framework for health care and a health pathway, states that the 'Right to health care covers a wider canvas, including sanitation and drinking water availability'.

HRWS in National Development Plans and Programmes

A review of eleven Five-year Plans implemented in 1951-2012 revealed the following salient features in meeting the WASH needs of vulnerable communities.

- Increased prioritization and a substantial increase in budget allocations to provide water-supply services to all the areas identified as uncovered or partially covered and areas where sanitation had long been neglected
- Recognition and planned measures to ensure social equality in the distribution of assets for drinking water so that the Scheduled Caste/Scheduled Tribe (SC/ST) population and other poor and weaker sections benefit
- Sector reforms to empower communities and enhance their participation in managing water-supply services
- Improvements in data collection and the planning of water and sanitation services in needy areas, including those subject to natural disasters and vulnerability

Rural Sanitation Programme: SBM (Phase I). This nationwide programme, launched in 2014, is one of the most important programmes to contribute to the realization of universal access to sanitation facilities in India, and it contributed to the nation becoming ODF. The programme's implementation guidelines included provisions for benefitting the LNOB and realizing the spirit of the HRWS, as provided in Annexure 6. **SBM Phase II.** Inspired by the success of SBM Phase I, the Government of India has launched SBM Phase II, to be implemented from 2021 to 2025, with an outlay of Rs. 14,08,810 crores, the main objectives being ODF sustainability and solid and liquid waste management. SBM phase II continues to provide a financial incentive to excluded or new BPL and APL families to construct toilets and community sanitary complexes, giving a priority to benefitting SC and ST populations, women, the poor and migrant populations.

Swachh Bharat-Swachh Vidyalaya. The 'Clean India-Clean School' is a special co-campaign implemented nationwide as part of SBM to ensure that every school has functional and well-maintained water, sanitation and hygiene facilities and clearly defined norms for adequacy of the facility. Menstrual hygiene facilities are clearly prescribed in the guidelines. Sarva Siksha Abhyan (SSA), the midday meal programme reaching more than 100 million children every day, the national secondary education programme and the Kasturba residential schools established to educate girls from disadvantaged sections include compulsory norms for WASH facilities.

Rural water supply: Jal Jeevan Mission. Har Ghar Nal Ka Jal, the national flagship programme launched in 2019 backed by financial resources, is aimed at the planning and implementation of participatory water-supply schemes to ensure that every rural household is provided with a functional household tap connection (FHTC) by 2024. The inconsistency and gaps in the current supply systems would be resolved to deliver a minimum of 55 LPCD at a prescribed quality (BIS:10500). This mission is aimed at universal coverage in rural areas of India with provision being made to ensure budget allocations to SC and ST populations in proportion to the size of their populations. Participation of women at all levels of these institutional arrangements is provided for in the planning and implementation of this programme.

Urban water and Sanitation Programmes. A list of the various urban programmes for water and sanitation entitlements for the poor and vulnerable are presented in Table 1.

Table 1. List of urban programmes focusing on urban water and sanitation in India

Year	National Programmes / Development Plans	Focus on the WASH needs of the poor and vulnerable
2005	Jawaharlal Nehru National Urban Renewal Mission (JNNURM)	Scale up delivery of civic amenities and provision of utilities with resources for universal access. Provision of earmarked budgets for improving basic services at affordable cost to the urban poor, including water supply and sanitation
2011	Rajiv Awas Yojana	Provision of housing with basic amenities, including water supply and sanitation services for all notified and non-notified slum-dwellers on a par with services available for the remaining parts of the city. Empowering slum-dwellers associations and federations to have their say at all levels of decision-making.
2015	Pradhan Manthri Awas Yojana	Provision of houses for dignified and safe living for the urban poor with amenities including toilet and water supply. Preference to the elderly, persons with disabilities, single women, transgender, SC, ST and other vulnerable sections.
2015	Atal Mission for Rejuvenation and Urban Transformation (AMRUT)	Enhancing quality of life, especially of the poor and disadvantaged, by improving urban infrastructure essential for improving basic amenities, including water supply and sewerage
2015	Smart Cities Mission	Inclusive and sustainable approach to improve quality of life in urban areas by improving infrastructure, including adequate water supply and integrated sanitation

In all the above-mentioned development plans and programmes prioritization for the poor and marginalized is mentioned, but the HRWS has not been integrated in its true spirit, and similar results were expressed during the interviews with key stakeholders. The data from those of the study's respondents who answered the online questionnaire felt that the HRWS is not integrated into policies. Graph 1 below provides details of their perceptions.

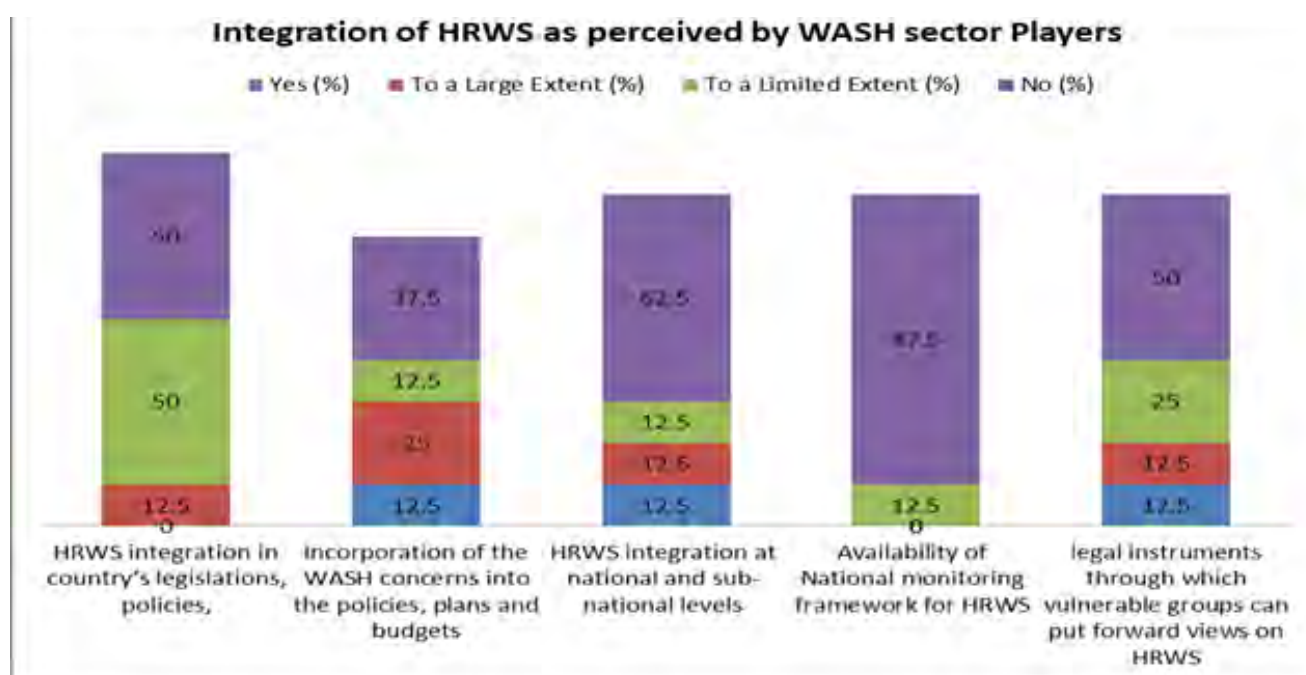


Figure 1. Integration of HRWS as perceived by WASH sector Players

Source: data analysed from online survey questionnaire administered to WASH sector players

SBM and WASH in health care facilities. As part of SBM, the Ministry of Health and Family Welfare has issued swachatha (cleanliness) guidelines for health facilities, which has led to the prioritization of and conscious efforts to improve WASH conditions in health-care facilities. Primary healthcare centres in both rural and urban areas are the locations for health-service delivery. However, these centres lack adequate water, sanitation and cleanliness. In particular, government-owned and run facilities catering to the health needs of the poorer sections of the population pose the risk of 'hospital-acquired infections' due to the inadequacy of infrastructure and facilities. A lack of trained and motivated human resources, inappropriate designs, insufficient budgetary allocations for maintaining WASH conditions and facilities, the lack of an adequate water supply 24/7 and inappropriate behavioural practices on the part of the facility's users and staff are the main reasons for gaps in the WASH conditions in health-care facilities. The aspiration for cleaner cities has certainly contributed to significant progress being made in public toilet facilities in urban India. However, coverage of these facilities is much less in poorer neighbourhoods: user charges are not affordable for the poor or homeless and street-based livelihood groups, and there is a lack of gender-friendly conditions and poor access for the differently abled. These are the issues to be addressed regarding toilet facilities in public places.

4.1.2. Regional and International Instruments

The Government of India is a signatory to UNGA's resolution (July 2010) recognizing the HRWS and acknowledging that clean water and sanitation are essential to the realization of all human rights. India is also a signatory to the UN's Agenda of Sustainable Development Goals 2030, which 'seeks to realize the human rights of all and to achieve gender equality and the empowerment of all women and girls'. This agenda includes Goal 6, to 'ensure availability and sustainable management of water and sanitation for all.' India's commitment to the right to water is also reflected in the following UN Resolutions and other high-level platforms:

- a. The General Comment 15 (2002) on the Right to Water adopted by the Committee on Economic, Social and Cultural Rights recognized that ensuring access to basic sanitation is a core obligation emanating from the right to water.^{10,11}
- b. The Convention of Rights of the Child, 1989 (Article 24), Convention on Elimination of All Forms of Discrimination against Women, 1979 (Article 14) and Convention of the Rights of Persons with Disability, 2006 (Article 28), all explicitly mention the right to water.
- c. The Third South Asian Conference on Sanitation (SACOSAN 2008), hosted by the Government of India, recognized that 'access to sanitation and safe drinking water is a basic right, and according priority to sanitation is imperative'. This commitment is further affirmed in all the subsequent SACOSANs up to the recent one in Islamabad (SACOSAN VII 2018).
- d. Heads of the Nations from South Asia at the 17th SAARC Summit signed a commitment 'to formulate an actionable framework to address the common challenge of sanitation and access to safe drinking water in the region'.¹²
- e. India is a signatory to SWA, but it has not made much progress in fulfilling the commitment to build mutual accountability mechanisms.

Some of the more important reasons for the increased political drive towards the realization of water and sanitation rights are the increasing prioritization for WASH in global strategies for human development, disseminating knowledge of health and WASH linkages, the growing demand for

better services, the proactive role of the judiciary in promoting improved WASH services and the aspiration to preserve the dignity of the nation globally picture.

4.1.3. WASH Service Provision: Equality in Accessing WASH

The special provisions in WASH policies and programmes did make substantial improvements in extending services to the unreached poor and vulnerable communities, but disparities continue to exist between urban and rural communities, rich and the poor, and socially advantaged and disadvantaged communities in accessing WASH services. Some of the important reasons perpetuating these inequalities are:

- The national programmes include progressive measures for the LNOB, but lack the sub-plans and dedicated budgets to enforce targeted and time-bound results.
- The poor and vulnerable are bundled into one monolithic category. In the absence of disaggregated data on different subsections and constituencies of LNOBs, it is difficult to identify and develop the most suitable approaches to address the social, economic and spatial barriers which cause inequalities in providing WASH services.
- Under the pressure of achieving the national targets set for WASH progress, provisions for meeting the special needs of vulnerable communities are ignored or paid inadequate attention. For example, to achieve ODF status within the timeline set by the Prime Minister, the accessibility of toilets for the elderly and persons with disability is ignored to a large extent, despite having special guidelines under the SBM.
- Due to the gaps in aligning the leadership and capacity of the personnel, WASH service-delivery institutions are failing to prioritize and effectively implement the equality provisions in WASH programmes. Often the institutions serving the marginalized are inadequately resourced compared to those serving the better-off sections of society. For example, one major reason for urban–rural disparities is that the village-level local bodies that manage WASH services experience financial and human resource constraints in playing their role. The situation is much worse in remote tribal areas.
- The absence of robust accountability and monitoring mechanisms is also weakening the processes of implementing the provisions created for addressing inequalities in progress with WASH.
- There are no compliance and regulatory mechanisms to enforce quality and pricing standards on the service charges collected by private water enterprises.

The increasing gap between rich and poor, and disparities between subcategories of the poor in accessing WASH needs, were evident from the insights gathered through a series of group consultations organized for this study. The consultations clearly indicated that almost all the marginalized groups are experiencing a sense of deprivation in accessing water and sanitation services. It is also pertinent to note that these vulnerable groups cannot be placed under exclusive categories, as people face multiple vulnerabilities. Despite the demand to assert these rights in line with the guidelines, their situation did not change, and they continued to receive low-quality services. The status of WASH services and challenges in respect of access for each of the LNOB groups is summarized in Annexure 7 (sanitation) and Annexure 8 (drinking water).

The data analysed from the responses of different sector partners are not disaggregated enough to measure the incremental progress made from time to time by the LNOB groups, who are unable

to raise their voices to assert their rights in respect of the provisions made for them. LNOB groups do not have platforms or a mechanism to demand services, and their role in decision-making is very weak. The pro-poor provisions of the current WASH programmes are not being put into practice satisfactorily, and the LNOB communities still face restrictions, with evident denial of access. Though gender concerns are prioritized in the policy, in practice very few women receive training in technical and managerial skills.

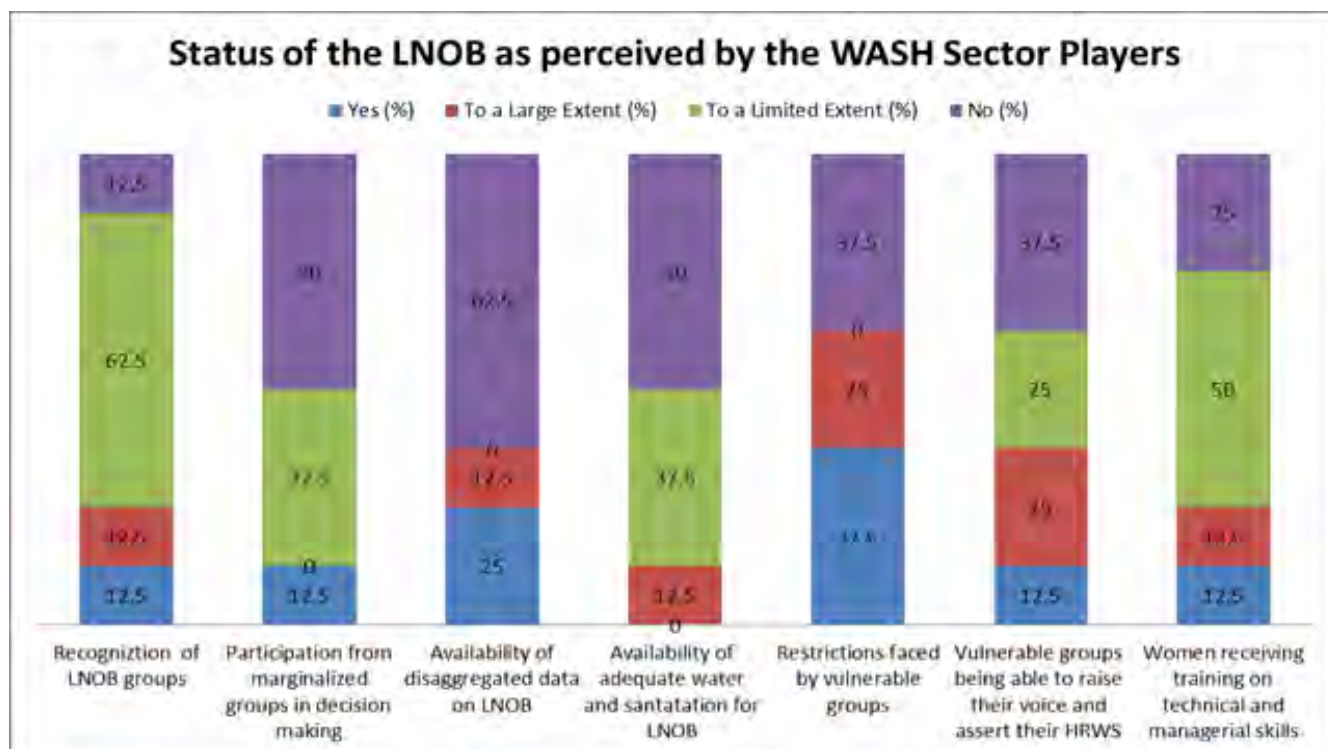


Figure 2. Status of the LNOB as perceived by the WASH sector players

Source: data analysed from online survey questionnaire administered to WASH sector players

Impact of COVID on WASH. The COVID-19 pandemic has led to huge progress in raising public awareness of the significance of WASH for maintaining good health. In the past five months, the threat of COVID infection has created tremendous improvements in the practice of hand-washing, the consumption of safe water, and the regular use and maintenance of toilets in adherence with COVID-19 advice. This improved level of awareness and behavioural practice has also led to a sudden rise in the demand for water and sanitation services. Lockdowns and extended closures of workplaces have compelled people to confine themselves to their homes, which has also increased the demand for water and sanitation services. People being tested positive for COVID and advised to isolate at home have also created additional demand for water and sanitation, as the control measures required more use of water,



frequent washing of shared toilets and sanitization of the home environment. Unfortunately, the demand for water increased just when the availability of water had drastically fallen during the peak summer season (March to June), which coincided with the outbreak of the COVID infection in India. Later, in the months of July and August, increased use of water, coupled with flooding caused by monsoon rains, made the sewerage system overflow, which posed additional threats to public health given the presence of the coronavirus in human faeces and sewerage. Solid waste collection, sorting, transfer to recycling units and dump yards and their treatment has been totally disrupted due to the reduced availability of frontline sanitation workers because of forced migration and the lockdown. The poor and vulnerable whose livelihoods were worst hit by COVID have not been able to pay for water services, which caused a loss of revenue for the water utilities and a loss of incomes for door to door waste collectors. The loss of revenues to national and subnational governments caused by the COVID-19 pandemic might reduce the funding for WASH targets set out under annual budgets, as the country suffers the economic fall-out of the pandemic.

Budget and Finance.

In the budget for FY 2020-21, water, wellness and sanitation were identified as key sub-components under 'Aspirational India'. The budgetary allocations made for water and sanitation in 2020-21 are substantially higher (by 20%) compared to previous years, and they are also higher in proportion to the overall budget. These increased allocations are quite promising for meeting the needs of vulnerable communities, as use of the funds will be directed by the guidelines for implementation of national water and sanitation programmes, which emphasize equity and inclusion. Budget provisions are also made to balance supply and demand, increase groundwater recharges, increase water efficiency and quality, and improve the sustainable management of waste. The budget for financial year 2020-21 includes important allocations, amounting to a total of INR 3,04,780 million, directly contributing towards the realization of SDG 6. The budget for JJM contributes to SDG 6.1, that for SBM Rural and Urban to SDG 6.2. The Clean Ganga Project (Namami Ganga) and National River Conservation are linked to SDG 6. The PMKSY Programme (more crops for every drop of water), the Ground Water Management Programme (Atal Bhujal Yojana) and watershed development projects are linked to SDG 6.4, increasing water use efficiency.²⁴ Utilization of the budgets allocated by the Union government is by the state governments, which add their share of budgets to the funds disbursed by the Union government. The Union government has introduced the Swachh Bharat Cess to mobilize adequate funding for the ambitious targets set under SBM by adding a 0.5% additional tax on all leviable services. This was implemented from 15th November 2015 to 30st June 2017 and collected a total fund of Rs. 20,632.91 crores. This was released to Swachh Bharat Kosh for financing sanitation improvement initiatives, mainly in rural areas covering the poor and vulnerable communities. Between 2015 and 2019 the budget for sanitation increased, but the allocations for water fell short of the demand. From 2019-20 onwards the allocations will be more balanced for water and sanitation. While the budget allocations promise progress to be made on SDG 6, the targets set under the budget are very unlikely to be achieved due to the loss of revenues and the recession caused by COVID 19. The livelihoods of the poor are also adversely affected by COVID, limiting their ability to pay for water and sanitation services.

Though guidelines and provisions have been made for utilizing the allocated budgets to meet the needs of excluded population groups, their utilization is a big concern. In the absence of budget tracking, accountability mechanisms and platforms for vulnerable populations to access equitable

services, it becomes difficult to determine whether the funds are being utilized for their intended purposes. In an analysis of the past four years' budgets for SC/STs, consistent under-utilization of the budgets allocated to poor and vulnerable communities has been noted.²⁵

Quality Management System.

The JJM guidelines mention that 2% of JJM funds have been earmarked to ensure drinking water quality, which should adhere to BIS:10500. In water quality-affected habitations, especially with arsenic and fluoride contaminants, potable water must be ensured as a priority. As an interim measure, flexibility was given to setting up Community Water Purification Plants (CWPPs) to provide 8-10 lpcd potable water to meet the drinking and cooking needs of every household residing in the affected villages and habitations. Though water-quality surveillance institutions have been introduced nationally, they have not been very effective, as there is no harmonization or coordination with state and/or district-level water-quality testing laboratories. The government-owned water-quality testing labs set up at the district and subdistrict levels are not very effective due to a lack of proper coordination mechanisms with water-supply institutions and water-user communities and a lack of chemical supplies. Gram Panchayats lack the technical capacities and resources to be able to monitor the quality of the water they are supplying in rural areas. In the case of urban water sources, a majority of the cities use surface water as the source, and the water quality is tested at the treatment plants and transmission points. Since this activity falls under the utility's responsibility, there are regular checks and independent surveys to ascertain the quality of the water in order to acquire ISO certification. In urban areas, bacteriological contamination and pollution from sewerage are recognized as major challenges. The poor and vulnerable communities that primarily using the public water supply to meet their water needs have low levels of awareness or of the capacity to hold the service providers accountable for water quality. Sanitation also suffers from the same fate. Prior to the release of financial incentives, the toilets constructed by the beneficiaries are also physically verified to check their compliance with technical quality norms. Similarly, the ODF status of the villages is also monitored by the district authorities with mandatory third-party verification in the case of a village covering all households within 90 days of ODF status being claimed by the village. Similarly, every year Swatch Survekshan conducts a survey, ranking cities' progress with sanitation on an all-India basis, highlighting towns that are clean and green. Despite these quality management systems being in place, their implementation suffers from a lack of transparency, and the checks and balances needed to review quality are not foolproof, thus limiting the quality of the services. The challenges are greater for the vulnerable groups, given the tendency of the bureaucracy to favour those who are politically and economically strong.

Capacity

Both urban and rural water-supply programmes are dominated by technical engineers who lack the attitude and aptitude to work with communities. Though there is a programmatic budget allocation for Information, Education and Communication (IEC), often these budgets are un- or under-utilized due to the lack of social engineering skills on the part of the technical engineers. In researching life-cycle costs, Mekala et al. discovered that the budget utilization for IEC was not proportionate to the capital expenditure in the state of Andhra Pradesh.²⁶ The CSOs working for specific LNOB groups are making efforts to build their capacities, but most of them are suffering resource constraints. The CSOs mobilize LNOB groups for campaigns and petitioning to highlight gaps in ser-

vice delivery and pressurize governments to deliver services to vulnerable communities, which often local governments do not view in a constructive spirit. Vulnerable communities are not sufficiently organized to be able to engage consistently in negotiating and influencing governments to allocate adequate resources and use them efficiently. However, some of these efforts have had successful outcomes, and one of the best examples in the country has been successful in 'bringing about a radical change through empowering vulnerable communities is the enactment of the "Prohibition of employing manual scavengers and their rehabilitation Act".'

4.1.4. Monitoring and Evaluation

There is no monitoring and evaluation framework for measuring HRWS integration. The regular monitoring mechanisms to some extent provide the status of WASH services to LNOB. However, the reliability and validity of the data on government websites must be questioned. The nodal ministries for drinking water and sanitation in both urban and rural areas have their own monitoring and evaluation mechanisms to check the progress of their programmes, such as AMRUT, SBM or JJM. To monitor the country's progress on SDG indicators, NITI Aayog and the Ministry of Statistics and Program Implementation (MOSPI) have the responsibility for tracking the results at the state and district levels^{27,28} To track SDG progress in the country, MOSPI developed the National Indicator Framework, which has 297 indicators across all seventeen SDG goals. A coordinated system exists for generating and managing data through a process of consultations involving federal ministries, subnational governments, research institutions, the UN and other international organizations, as well as civil society.²⁹ One of the serious challenges with the data is that the data sets and reports produced by different government agencies reveal inconsistencies with respect to water and sanitation coverage. Developing a national monitoring framework, setting up a dashboard and presenting a VNR report are major milestones in tracking progress with SDG6. However, there is still much to be done, especially in tracking WASH access for the most marginalized using defined statistical indicators and disaggregated data to monitor progress.

Data-management Systems

Both SBM and JJM have extensive and comprehensive data-management systems. The Integrated Management Information System (IMIS) of the Ministry of Drinking Water and Sanitation (Jalshakthi) is one of the largest online monitoring portals in India, which generates reports down to the hand-pump level in each village. Physical and financial targets, and progress achieved towards them, can be tracked down to the village level, including data on water quality. IMIS is designed to compile consistent, systematic, transparent and secure data on rural water for policy support.³⁰ Earlier, these data were available to every user, but now they can only be accessed by department personnel. The SBM (Gramin) online monitoring system is created from the baseline data for the number of households without toilets, which forms the basis for targeting the number of toilets to be constructed in each district to achieve ODF status. An online data-management system is used to track the beneficiaries at the village level in real time, and an online automated SMS system to communicate with the beneficiaries and an online complaint-redressal system have also been put in place. As part of the Educational Management Information System, in 2012-13 the Ministry of Human Resources Development (MHRD) introduced a United District Information System for Education, which provides comprehensive data on 1.5 million schools, including the availability of basic drinking water, sanitation facilities and hygiene services. However, the databases still lack disaggregation for all the

LNOB groups, though to some extent Scheduled Castes, tribes and women can be disaggregated. A review of progress made does not provide a gender component with which to check whether the special provisions made in the guidelines are being implemented and whether the budgets are being utilized for this purpose.

Budget and Financing.

There are no specific budget allocations to support human rights-compliant data collection and management, nor to track the budget allocations for LNOB. There is a lack of transparent and accountable mechanisms to track the budget spent on these groups. The budgets allocated for monitoring and designing data-management systems are not adequate in general, and no budgets have been allocated for developing databases to track the HRWS or LNOB in respect of progress with WASH.

4.2 Obligations of Other Stakeholders

4.2.1. Donors and International Organizations

Donors. For sanitation, the World Bank (WB) has provided a loan of US \$1.5 billion for five years and embarked on a technical assistance programme to strengthen SBM-G nationally, as well as in select states for the planning, implementing and monitoring of the programme. In addition to lending, the WB conducts number of analytical and advisory studies that contribute to the dialogue on sector reforms and help ascertain the inefficiencies in and barriers to the improvement of services.³¹ The WB is a key funding partner for most of India's capital investment programmes. The ADB focuses on capital-intensive infrastructural programmes, water being one of the important components of these programmes. USAID is another big infrastructural supporter of the Government of India's water and sanitation, especially urban water and sanitation. Urban reform programmes like APUSP promoting slum development and women's empowerment are noted examples. GIZ, KFW, the European Union, DFID and the Royal Netherlands Dutch Embassy are other bilateral agencies which promote many water- and sanitation-related programmes with popular participation as their central focus.

UN organizations. There are many UN organizations working in India. The most important such organizations working on the protection of Human Rights include the United Nations Resident Commissioner in India through its Chief of Office, with notable contributions to protecting the rights of migrants, labourers and other marginalized groups. UNICEF India's main mandate is to collaborate with the government on advocacy and technical support to the national and state governments with a focus on promoting inclusivity and implementing the principle of LNOB. The Water Sanitation Services Collaborative Council (WSSCC) promotes the HRWS, focusing its efforts on advocating that the Government of India concentrates on LNOB approaches. The WSSCC has always been at the forefront of bringing the voices of the marginalized to the national and international levels, and recently in India it issued a 'Consultation on the contribution of Swachh Bharat Mission towards achieving SDG6 in India for those furthest behind' at Rishikesh. A recent roundtable conference on including persons living in informal settlements in WASH and responses to COVID-19 provided an opportunity for representatives of vulnerable communities in India to share their views and experiences.³²

International NGOs. The most important international WASH NGOs (INGOs) include WaterAid, Sanitation Water for All (SWA), BMGF, Plan, the Agha Khan Foundation, the International Water and Sanitation Centre IRC, Water For People etc., their Indian branches implementing various WASH programs in India. Among these, WaterAid has been very actively engaged in promoting the HRWS. Though the government recently signed up as a member of SWA, there has not been much progress in getting a commitment from it regarding a mutual accountability mechanism or promoting multi-sector platforms to promote SDG 6 with collaborative behaviour. The Bill and Melinda Gates Foundation also works very closely with the government by focusing especially on faecal sludge management and urban sanitation issues, but with limited action towards realizing the HRWS. Plan International, the Agha Khan Foundation, the IRC and Water for People work mostly at the subnational level, i.e. with state governments, to provide evidence-based learning by working closely with local CSOs and NGOs. There is no noteworthy engagement with state governments towards realization of the HRWS.

4.2.2. NGOs/CSOs/Faith-Based/Rights Groups

Under this category, the most important stakeholder networks are Wada Na Thoda Abhiyaan (WNTA), the Forum for Policy Dialogue on Water Conflicts in India, Safai karmachari Andolan, and the Confederation of Dalit and Adivasi Organisations. Wada Na Thoda Abhiyan emerged from a consensus among human rights activists and social action groups that a network was needed to hold the government accountable regarding the national and international commitments it had made. Currently, the network is conducting governance reviews, tracking progress with the Sustainable Development Goals and advancing the issues raised by the LNOB groups, focusing on all the SDGs, including 6.1 and 6.2. WNTA also generates shadow reports synchronized with official VNR reporting. The Forum for Policy Dialogue on Water Conflicts in India ('Forum' in brief) is a network of more than 250 individuals and organizations interested in engaging in water conflicts in India. Safai Karmachari Andolan emerged as a platform for the manual scavenging community to fight against discrimination, exploitation and violations of rights politically, socially and legally. Safai Karmachari Andolan was instrumental in forcing the government to ban manual scavenging through its PIL in supreme court, which is the basis for bringing out the Prohibition of employment of manual scavengers and their rehabilitation Act 2013.³³ Among the notable national NGOs working in the water sector are Arghyam, Samarthan, the WASH Institute, WASSAN, the Safe Water network, MARI, AKVO, AFPRO etc. They are also actively supporting governments in carrying forward IEC campaigns, building communities' capacities and making small efforts to reach the neediest populations. NGOs working on the rights-based approach are engaged in empowering vulnerable communities but do not focus much on the HRWS specifically. Among the notable CSOs working for the LNOBs specifically are NACDOR for the Scheduled Castes and Tribes, the All India Sex Workers Association (AISWA) for sex-workers, and CHD for the urban homeless and shanty dwellers, alongside many other such NGOs. Faith-based organizations like the Global Interfaith WASH Alliance (GIWA) organizes workshops and consultations to build an interfaith approach to advocate water and sanitation issues with an LNOB focus. FANSA is another regional network of CSOs that addresses WASH issues across eight countries in South Asia. FANSA India has twelve state chapters and more than 350 organizations as its members, and their work includes CSO capacity-building in advocacy processes, bringing the voices of vulnerable communities to high-level decision-making platforms and anchoring people-centred processes to hold governments accountable for their WASH-related commitments.

4.2.3. Private-sector Service

The private players in the WASH sector mostly limit their support to setting up community-level water-purification plants, building toilets and undertaking other government initiatives under SBM. However, any role in advocating human rights seems to be entirely absent. Nevertheless, with the advent of CSR rules in 2014, many companies have floated their own trusts or CSR initiatives, which have exerted a considerable thrust in supporting SBM programmes, mainly for toilet installations. Some large trusts of business companies were present in India before CSR, including the Tata Trust, ICCFAI, the Azim Prem Ji Foundation etc., whose focus has been on wide-ranging development issues, including water and sanitation.

4.2.4. Research Organizations

The most noted research organizations under this category are the Centre for Science and Environment, the Centre For Policy Research, CBGA and ICAR-supported research institutions like CESS, IGIDR, ISEC and the Centre for Good Governance.^{34,35} Among them, CPR is the most noted organization advocating the HRWS. CPR's contribution is significant in analysing the gaps between the provisions laid down in the regulatory framework and actual practices on the ground. Their critical analysis of ongoing programmes provides the government with lessons and feedback. CBGA (the Centre for Budget Governance and Accountability) started as a group of civil-society leaders and academicians, with the mandate to promote transparent, accountable and participatory governance, and to develop a people-centred perspective in preparing and implementing budgets in India. Its budget tracking and analysis from the five-year plans to the expenditure reviews provides feedback to the government on mid-course corrections.

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5. GAPS AND CHALLENGES

The articulation of commitments by the government through various policies and programmes, the underlying human and political interpretations of high-level judicial forums regarding the existing provisions in the Constitution and other pieces of legislation are analysed in the foregoing part of this chapter. This has provided ample evidence that, although India is not in an ideal situation, it has made encouraging progress in integrating the principles of the HRWS, though a huge gap still exists in translating its spirit. The main gaps and challenges are listed below.

1. **Lack of a robust process for domesticating international commitments.** High-level political leadership in India has not adopted a systematic process to engage with the national Parliament, state legislatures or local self-governing bodies to impart information about the country's endorsement of the UN resolution on the HRWS and the right to sanitation at SACOSANs. There is a lack of political momentum to reorient national policies, adopt the HRWS to the country context and chalk out a strategy for its realization.
2. **People as passive recipients.** All the policies and programmes implemented in the WASH sector are dominated by the approach of treating 'people as passive receivers', with services being provided based on the decision of the implementing agencies rather than the rights claimed. 'Dependence of people on the government' is nurtured, rather than empowering people to share the responsibility for service provision. 'Holding governments accountable' for the realization of rights to water and sanitation services is a distant dream.
3. **Lack of an integrated approach.** The current policies and interventions on water and sanitation are pursued in isolation with short-term targets rather than implementing them in an integrated manner together with related departments, such as health, livelihoods and urban development, to ensure access to WASH for everyone at all times and everywhere. The country is yet to evolve a policy framework integrating all the sectors to balance the multi-sectoral demands on water.
4. **Vulnerable communities lack the capacities and resources to assert their rights and entitlements.** Historically, vulnerable groups lack proper political understandings of the rights and entitlements of individuals and the states' obligations to fulfil those rights. This limits their capacity to resist denial of services to them and to assert the demand for their rights and entitlements to WASH services. Poverty and illiteracy are major impediments in going to a court of law to challenge the state and seek justice, being beyond their financial and technical capacity. In such situations, the scale of the efforts needed to seek justice through the courts depends upon the ability of NGOs and human rights activists, who are limited in number, their ability to mobilize and raise awareness being highly insufficient to build the collective demand from the poor and vulnerable communities.
5. **The content of the HRWS is not defined in the national context.** India's apex courts and judicial forums have established very clearly the position that the right to water and sanitation is included under the principle of the 'fundamental right to life', but there is no consistency or clarity regarding the content of the 'right', meaning what can be expected in definite terms by the rights holders. Those who are subjected to the denial or violation of their entitlements to WASH are not able to perceive these as violations of their fundamental rights. Thus, denial is accepted rather than resisted, while the rich and powerful take advantage of legal courses of action and often judicial activism advocating universal access to water and sanitation more than vulnerable communities.

6. **Non-applicability of courts' rulings nationwide in upholding the HRWS.** Many cases where the courts have upheld the right to water and sanitation are based on the locally specific context, and thus the application and relevance of such rulings to the pan-Indian situation is limited. Experience also shows that the courts can only make decisions, they cannot act as implementing agencies, hence implementing the courts' decisions in favour of rights-based approaches to WASH services is inordinately delayed and diluted.
7. **Capacity gaps.** One of the key reasons for states' reluctance to recognize the HRWS explicitly under the law is self-perceived lack of the capacities and financial resources to be able to deliver on the HRWS at all levels. Capacity gaps exist across all the key players in the WASH sector at the different institutional levels.
8. **The universal approach is blind to potential exclusions.** Equality and inclusion are intrinsic to realization of the HRWS in both SBM and JJM, but both programmes lack adequate monitoring measures or mechanisms to ensure this. Identifying and collecting reliable data on the unmet and special needs of LNOB, establishing the reasons for the exclusion of LNOB in previous programmes, setting the baselines for WASH coverage, sensitizing and capacity-building personnel, and targeting and measuring progress are all missing when it comes to addressing this potential exclusion.
9. **Multiplicity of programmes and delivery institutions with complex guidelines for implementation.** The provision of water and sanitation services is reformulated and replaced by new schemes from time to time, giving LNOB communities the challenge of understanding the multiple programmes that are implemented by different institutions and the changes in procedures that must be followed to prove eligibility and leverage support under these schemes. This results in making the vulnerable dependent on middlemen to leverage support, the latter often siphoning off the benefits and sometimes favouring the less deserving.
10. **Lack of robust accountability mechanisms.** Although a wide range of incentives and entitlements are provided under various government schemes, no functionary in the government's delivery agencies is bound by any obligation to extend the benefits to the marginalized and vulnerable communities named under those schemes, nor can they be made accountable. Similarly, the infrastructure created and the services delivered to marginalized and vulnerable communities often suffer from gaps in quality, inappropriate technical designs, delays in completing the work, corrupt practices, etc. The lack of robust accountability mechanisms to check such gaps in service delivery to the vulnerable makes it difficult to curb them.
11. **Dominance of top-down supply-driven approach.** Although the common framework for implementation guidelines designed nationally includes a provision for the participation of vulnerable communities, it is little more than tokenism, and there is lot of ambiguity in interpreting these guidelines. A lack of community ownership and leadership in planning and implementation limits the acceptability, quality and affordability of the services.
12. **Least focus on the HRWS in international cooperation.** There is no explicit focus on strengthening development cooperation in building a human rights-based approach to water supply and sanitation in the country even by UN organizations, which are not proactively advocating HRWS integration.
13. **Human rights commissions are not effectively engaged in promoting the HRWS.** Human rights activists in the country have given very little attention to the gaps in realizing the HRWS, and the affected communities are hardly seeking the intervention of human rights commissions in addressing the refusal of WASH entitlements. HRCs accept cases only when violations of the right to life, liberty, equality or dignity have been established, and do not directly support the HRWS.

On issues like water pollution or contamination of water by fluoride, the National Human Rights Commission has taken suo-moto cognizance and issued notices to the concerned governments, but the number of such proactive responses from the HRCs is insignificant and not legally binding on governments. In some cases the HRCs also impose time-bound actions on governments and if required can invoke a coercive process under section 13 of the provisions of the Human Rights Act for the representative of the concerned authority to appear before them in person. The stand taken by HRCs on all such matters plays a very influential role in legal actions pursued by human rights defenders in respect of court proceedings and shaping public opinion.

14. A lack of segregated data on budgets for realizing the water and sanitation rights of vulnerable communities. The current national strategy of allocating dedicated budgets from the allocations made to various schemes, including water and sanitation, in proportion to the population size of SC and ST communities has serious gaps. This hampers the realization of its ultimate objective of promoting welfare, development and social justice for these communities. A practice of dedicated budgets and tracking is not being followed for vulnerable groups such as the disabled, single women, transgender persons etc. Flexible approaches are not followed when utilizing the budgets to empower vulnerable communities, and there is no robust system of monitoring and measuring the outputs and outcomes from the utilization of these dedicated budgets.
15. Monitoring and MIS do not include indicators for the HRWS or for tracking LNOB progress. At both the national and state levels, the existing monitoring and MIS systems do not have any indicators or data to determine progress with the HRWS. A more serious challenge is the lack of any segregated baseline data, indicators or budget-tracking mechanisms to measure progress across different vulnerable populations. The data available in the public domain is limited and does not provide the public with an opportunity to check progress with the HRWS.



6. RECOMMENDATIONS

This chapter includes recommendations for pursuing a more systematic and balanced approach to accelerate progress towards realization of the HRWS in India and to ensure WASH access to LNOB.

Advocacy

Coalition-building and convergence as an approach to promoting WASH rights. The cross-cutting implications of WASH rights violations for other rights, like those to education, employment and food, need to be recognized and effectively articulated by advocates of the HRWS. This would create conducive conditions for alliance-building among the ongoing human rights movements across different sectors, which is necessary to harmonize efforts and increase the capacity to influence policy-framing and governance in the WASH sectors.

Building a strong case and evidence for HRWS integration. Dispelling the misinterpretations, misconceptions and fears about the HRWS is very important in order to advance the debate on this issue. One constructive way of doing this is to develop a draft law on the right to water and sanitation that responds to the current inequalities, exclusions and violations of the rights and entitlements of vulnerable communities. CSOs and rights activists promoting HRWS should engage in building a widespread public debate for developing content for the HRWS in the national context. The option of introducing a private member's bill can be explored through Members of Parliament aligned with CSOs' positions on the HRWS and thus induce the party in power to take an explicit stand on the matter. This would be helpful in further strengthening advocacy strategies regarding the HRWS.

Learning from the successful advocacy strategies of the rights movements in India. The successes of the past in securing rights through special laws (rights to information, education, food, employment and the prohibition of manual scavenging) were all rooted in civil-society campaigns and advocacy providing better direction. CSOs and networks advocating the HRWS need to build convincing arguments and provide evidence for the need to recognize the HRWS as justiciable rights, while advocacy processes need to go beyond the conventional approaches of holding debates or meetings with closed groups. This should become an electoral issue by actively engaging the political and judicial systems and duly incorporating into their election manifestos examples of those countries where the HRWS has already been integrated into the legal framework.

Creating an Enabling Environment

Exploring the roots of public-interest litigation to build legal support for HRWS. CSOs need to gather evidence more systematically about the refusal and deprivation of services and violations of the existing laws and guidelines for vulnerable communities. This must also be done to claim in the courts the WASH rights of vulnerable communities that lack the ability to seek justice in a court of law.

Prioritizing funding for social mobilization on the HRWS. International organizations, including WS-SCC, should focus on funding CSOs to implement projects that prioritize building strong popular mobilization demanding the HRWS. A balanced approach must be taken between supplementing service delivery and promoting a rights-based approach towards realizing SDGs 6.1 and 6.2 in an LNOB context.

Prioritization of LNOB in practice. This can be achieved only by allocating dedicated budgets, defining clear institutional mechanisms for inclusive planning, implementing and establishing monitoring processes, and indicators to track the reach of the benefits to the LNOB. Furthermore, special guidelines and budget allocations should be made for (1) budget tracking, (2) building accountability mechanisms and platforms, (3) designing databases for tracking the implementation of HRWS principles, (4) mechanisms to monitor the benefits and ensure gender participation, and (5) generating disaggregated data for vulnerable groups.

Revamping and redesigning institutional mechanisms. It is not possible to address marginalization or issues of social and gender equity without revamping the current institutional and governance mechanisms, which are top-down and difficult to operate in situations of huge diversities. Empowering the lower tier institutions, specifically rural and municipal governance structures, with defined roles, responsibilities and accountability mechanisms is essential to the introduction of incentives and disincentives.

Legislative framework: laws and acts to track the spirit of the HTWS. The new National Water Policy currently being drafted and the state water policies that are likely to be redrafted in line with it should include a strategy for how the HRWS can be integrated into water resources management and regulation in India.

Increasing staffing by filling vacant positions. Most of the ULBs and DWS departments are understaffed, meaning that their performance is not up to the mark, especially in reaching the last-mile beneficiaries, which takes a lot of time, resources and a readiness to take risks, which it is difficult to expect when the existing staff are overloaded. Furthermore, investments and policies alone cannot solve these problems. There needs to be an accountable system making officials responsible for managing the sector efficiently, with defined roles and responsibilities for each of the duty-bearers.

Capacity Development and Supporting Civil Society

Knowledge, skills and risk-reduction strategies. Though many CSOs are committed to a human rights approach, a lack of knowledge of human rights frameworks and inadequate articulation skills limit their involvement in promoting the HRWS. Securing recognition for human rights is a long drawn out process that creates difficulties for CSOs in continually investing their human and financial resources in advocating human rights. Addressing this challenge needs capacity-building CSOs to develop realistic advocacy strategies with clearly defined short-term and long-term targets for change. Challenging the states and governing institutions is an inevitable part of the activities of human rights movements, which may increase the risk to CSOs in functioning with funding from governments and external sources. Thus, risk reduction and management should be integral parts of the capacity-building process in enhancing the advocacy skills of CSOs. UN organizations (WSS-CC) can play a greater role in supporting this cause.

Enhancing the ability to forge collaborative links with government to promote the HRWS. CSOs should be able to balance their efforts between increasing the demand for a separate law recognizing the HRWS and putting pressure on the state to improve implementation of the existing WASH commitments for LNOB populations. To do this, CSOs need to be trained in negotiating with and lobbying local governments in a collaborative way, that is, as a co-partner, rather than criticizing, challenging or initiating PILs. Furthermore, their knowledge needs to be improved regarding the special provisions, technical options and resources earmarked for meeting the WASH needs of spe-

cific LNOB categories under the welfare programmes pursued by various government agencies (SC Corporation, Minority Corporation, Tribal Development Agencies etc.).

Community Empowerment

Creating community champions to defend WASH rights and entitlements. A large number of community-based organizations (CBOs) implementing the government's development programmes could be leveraged and trained in WASH rights and entitlements. Their capacities can be used to catalyse interventions targeted specifically at LNOB.

Community monitoring mechanisms. Accredited CSOs and NGOs should be engaged by governments to build community-led participatory systems for review and monitoring purposes, for example, social audits and community score cards, as mentioned by SBM in respect of empowering vulnerable communities to express their voices. The outcomes of these participatory monitoring processes must be fed into the SDG index and should strengthen the overall M&E system and improve the reliability of the data shared on progress with WASH.

Social stigma versus inclusion. Massive sensitisation is needed at all levels to remove the stigma certain LNOB groups suffer, such as transgender persons, sex-workers and sanitation workers. These communities need to be motivated to share the responsibility of implementing inclusive approaches to the equitable sharing and distribution of WASH services.

Enhance the Quality and Accessibility of Services

Budget allocations following life-cycle costing. The one-time capital investment needed to construct a toilet or water supply pipelines is a good way of providing access, but continuous use of these facilities requires maintenance costs and technical advice from time to time. Hence, public investments must be augmented for OpEx of WASH services. Low-cost capital and/or a revolving fund can be provided to women SHGs to provide soft loans to individual families for retrofitting or upgrading toilets and tap connections.

Enforcing norms. City corporations, Gram Panchayats and labour departments must be mandated to identify vulnerable groups that are excluded from WASH coverage and to make clear plans and implement them so as to ensure safe, clean and affordable water and sanitation facilities for LNOB groups. Non-compliance and/or lapses in the provision of WASH services to LNOB groups by the delivery personnel of the relevant local bodies should be checked against compliance norms and punitive rules.

Mapping LNOB and simplifying mechanisms for selecting beneficiaries. Districts and blocks with large marginalized populations need to be identified and a systematic mapping of the different categories of LNOB must be undertaken to obtain disaggregated data to be used as a baseline and to be made accessible publicly to all stakeholders so they can plan their interventions. Disaggregated gender data must be part of this exercise. Furthermore, the documentation process to provide financial incentives needs to be simplified. The responsibility for compiling supporting documents should be shared by the government agencies concerned in implementing JJM, SBM and Pradhan Mantri Awas Yojana (PMAY), as most LNOB populations are denied services owing to their inability to produce valid documents and proof of identity. Government should recognize any authorized ID

cards, including UN refugee cards, to be valid documents when accessing WASH services that are essential for human life.

Building human resilience in response to vulnerability to shocks. Adequate investments must be made to strengthen community preparedness and to design a climate-resilient infrastructure that can withstand vulnerabilities and ensure sustainability. Community champions belonging to the LNOB groups and the local panchayats need to be prepared and trained to cope with natural disasters, pandemics and the risks associated with climate change.

Partnerships

Interdepartmental coordination and cooperation. To accelerate progress with WASH for vulnerable groups, inter-sectoral coordination and convergence at all tiers of governance needs to be strengthened. Nodal agencies responsible for the implementation of social welfare, social justice, and health and livelihood development programmes for the weaker sections of society should be sensitized and motivated to integrate water and sanitation into their development programmes. Similarly, governments should proactively seek to establish partnerships with CSOs and share the responsibility with them for mobilizing vulnerable communities to improve the extension of WASH services to them.

LNOB: WASH access to be linked to SDG Index. Government agencies, CSOs and all other sector players in India need to demonstrate how the LNOB agenda is being translated through their organizational initiatives. A sub-plan approach needs to be adopted to meet the needs of each LNOB population group. The same should be reported by all organizations in a uniform structure so that comparing commitments becomes simple. The current SDG Index template used for national-level reporting on the SDGs should be expanded to include indicators specific to progress made with LNOB groups.

Gender mainstreaming at all levels. Collection of gender-segregated data, ensuring the participation of women in decision-making, gender-budgeting and gender sensitization at all levels (policy to practice) with monitoring frameworks and indicators to measure progress, needs to be integrated into interventions aimed at extending WASH services to LNOB groups in the population.

Dealing with COVID impact. Sector partners engaged in making progress with WASH should advocate and adopt a more integrated strategy to deal with the impact of COVID on the status of WASH. The increased awareness and positive behaviour related to WASH, induced by the pandemic, should not be allowed to slip back when the pandemic ends. Sustaining and further advancing this behavioural change is an essential requisite for realizing SDGs 6.1 and 6.2. To inform and influence future decision-making in the WASH sector, there is a need for more reliable evidence of how accessibility and the equitable distribution of services was managed during the pandemic. Critical assessment is also needed of how the availability or non-availability of WASH services has impacted on the ability of vulnerable communities to keep themselves protected from COVID-19. The lessons learnt from the current situation should be documented for future use. Because of a loss of revenues, the states are likely to slash budget allocations for WASH. As a result, sector partners need to engage collectively and identify alternative strategies through which governments can be advised to retain budget allocations for WASH and sustain the pace of progress with SDG 6.

Conclusion

The HRWS is not defined as a common standard of achievement in legal and policy frameworks, nor is there a clear strategy for integrating it as a justiciable right for everyone in the country. However, the HRWS is interpreted through other constitutional rights and provisions which are not so easy to claim through the judicial process, especially for the ordinary person. At the same time, India has introduced nationwide programmes on water and sanitation backed by a significant level of budget allocations, giving the highest priority to LNOB groups. Special privileges and protective measures for the vulnerable and socially disadvantaged are quite heavily emphasized in the national programmes. However, implementing these provisions is making slow and scarce progress and has not yet been able to ensure safe, adequate, accessible, acceptable and affordable water and sanitation services for some of the most marginalized and vulnerable population groups in India. WASH-related demands from the poorer and more vulnerable sections of the population would need a much longer timeframe and a process of empowerment. Donors and UN organizations need to create a demand for the HRWS through their national-level engagement strategies. International NGOs and CSOs should run campaigns with strong evidence for why HRWS is important, especially to address the concerns of the most marginalized. Though there are monitoring mechanisms, they need to be strengthened with more reliable and transparent systems, thus allowing budget tracking and data disaggregation to monitor progress. Multi-stakeholder platforms for mutual accountability need to be promoted to hold WASH-sector stakeholders accountable, including governments. Making further progress in realizing the HRWS essentially requires building up the pressure for the more efficient and accountable implementation of existing commitments while simultaneously building nationwide mobilization to demand recognition of the HRWS.



7. BEST PRACTICES

Below are descriptions of some of the best practices that have raised hopes that the HRWS can be integrated into current systems. The list below includes examples of how LNOB groups can be reached to improve WASH access across the country.

1. Age is only a number when toilet becomes a priority

Until the District Collector visited the remote village of Kotabari and spoke about the toilets, no one in this village knew about toilets. This prompted Kunwarbhai Yadav, a 104-year-old woman, to construct the first household toilet in the village, and she inspired the entire village to do the same. Age is only a number when one needs to protect oneself from the dangers of snake bites, dog bites, the lack of dignity and privacy and freedom, compelling one to make a wise decision. This sage decision has had a positive impact on the lives of many villagers. There are about 35 such inspiring case studies for replication. More case studies and best practices can be sourced from the link below.

<https://blog.mygov.in/wp-content/uploads/2015/11/Success-Stories-on-Swachh-Bharat.pdf>



Source: <https://blog.mygov.in/wp-content/uploads/2015/11/Success-Stories-on-Swachh-Bharat.pdf>

2. Transforming sanitation workers into sewer management entrepreneurs

Hyderabad Metro Water Supply and Sewerage Board (HMWSSB) is an urban water utility in Hyderabad responsible for the city's drinking water and sewerage management. HMWSSB formerly used large sewer-cleaning vehicles that could not go down the narrow lanes, forcing it to use human labour to clean the drains in these areas. HMWSSB introduced 'Mini Sewer-Jetting Vehicles' to clean the drains in narrow lanes, thus transforming its own sewerage workers into entrepreneurs. HMWSSB collaborated with M/s. Tata Motors, Hyderabad (for Chassis) and M/s. Kam Avida Enviro Engineers to design the cleaning equipment in a tie-up with the State Bank of India. Furthermore, an association called 'Dalit Indian Chamber of Commerce and Industry (DICCI)' assisted these sanitation workers in filing online tender applications, making quotations, applying for finance and ensuring their online tenders met the expectations of the bid. Finally, 31 sanitation workers won the bid to own 72 vehicles and were trained by Safai Karmachari Andolan to use the safety equipment. The vehicles are hired by HMWSSB for drainage-cleaning operations, payment for which is based on the length of the completed drainage operations. The owners of these vehicles now proudly say that they are earning double the income and are even able to pay their children's school fees apart from regular EMI to the banks. This intervention has had positive social, economic and health impacts. It has been replicated in many cities and has bagged many awards, such as the Telangana State Excellence Award 2018, the AMRUT Tech Challenge Award 2018 and the HUDCO BEST PRACTICES AWARDS 2018-19.



Source: Information provided by HMWSSB

3. WASH access to the most marginalized: a tripartite partnership approach

This unique initiative is aimed at providing capital costs to marginalized communities in the rural Krishna District of Andhra Pradesh through a tripartite partnership with the government, corporate social responsibility and a CSO. The strategy involved making the capital costs available upfront and getting toilets constructed by procuring the materials and increasing awareness among these families of the use and maintenance of toilets by creating a common fund. As part of this, a partnership agreement has been signed with three partners to perform specified roles and responsibilities: 1) Tata Trusts provided a revolving fund to promote the construction of toilets for the poor, facilitated negotiation with the District Government and aided the bulk procurement of materials; 2) the Krishna District Government sanctioned toilets for the poor and agreed to extend financial incentive support in reimbursement mode, as well as carrying out technical verification of the constructed toilets and their usage; and 3) MARI engaged five local CSOs to carry out rapid assessments

in 33 clusters to identify families excluded from progress with sanitation, built up the CSOs' technical and community mobilization capacities, and supported them in working with village-level local bodies to promote toilet construction and usage, managed the central bulk procurement of materials and supplied them to different locations, and designed and implemented a daily progress-tracking system which was very instrumental in achieving this progress. This strategy worked very well in overcoming the limitations the poor face in not being able to invest in toilet construction in advance. Making the village community understand the importance of ODF as a necessary condition for everyone's health was very effective and achieved by mobilizing and involving the village-level CBOs (women self-help groups, youth clubs and caste associations). Ensuring toilet access for the homeless poor, for those who have no land tenure, in circumstances when the housing site is as small as 30-50 square yards, and for people living in low-lying areas and loose soil areas, where the cost of construction is very high, were the major achievements of this project and are an excellent example of coordinated and collaborative behaviour as defined in the Sanitation and Water For All principles.



Source: Murali Ramisetty, MARI. Oral presentation made in Stockholm World Water Week

4. Building separate toilets for the transgender community: a new beginning

In a welcome move towards gender equality, Tamil Nadu has set up a toilet exclusively for transgender persons at Trichy city's Central Bus Stand. A first in the state, the toilet has a distinct sign marking the space as solely for the third gender. The circular issued by SBM (Gramin) said, 'In many communities, the third gender may often be dissociated from the mainstream. Swachh Bharat Mission (Gramin) should make a conscious effort so that they are recognized as equal citizens and users of toilets. They should be allowed to use the facility of their choice (men or women) in community or public toilets'. The order was passed on the basis of public interest litigation filed by Devaraj, an activist seeking the provision of separate toilets and bathrooms for transgender persons in the state. 'The provision has been availed and Tiruchi City Corporation builds an exclusive toilet for

transgender at a cost of about 9.8 lakh. While the service will be free of cost, the civic body has employed a person for its maintenance' read a report in The Hindu. Some other Indian states, such as Karnataka, Madhya Pradesh and Odisha, have also launched such initiatives. However, a section of the transgender community in Tiruchi fears that the provision of an exclusive toilet might lead to further discrimination towards the community.



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APPENDICES

Annexure 1. Population percentages of vulnerable groups in India

Category	Population
Dalits / Scheduled Castes	16.6% of population of India (Census of 2011)
Adivasis / Scheduled Tribes	8.6% of population (Census of 2011)
Women	48.5% of population (Census of 2011)
Elderly	8.6% of population (Census of 2011)
Persons with disability	27 million out of 1.2 billion population
People living with HIV (PLHIV)	2.1 million
Transgender	4.87 million (Census of 2011)
Female sex workers	3 million estimated in 2007 by the Ministry of Women and Child Development
Manual Scavengers	180,657 families engaging in practice of manual scavenging (Census of 2011)
Urban poor / shanty dwellers	100 million estimated in 2018
Migrants and refugees	5.1 million estimated in 2018
Urban homeless	3 million

Annexure 2. Details of the Key informants interviewed for the study

Category of stakeholder	Name of person interviewed	Representing organization
Governments	Depinder Kapur	National Institute of Urban Affairs (NIUA)
UN Organization	Sujoy Mujumdar	United Nations Children's Fund (UNICEF)
	Vinod Kumar Mishra	Water Supply Sanitation Collaborative Council (WSSCC)
International NGOs	Siddhartha Das	Sanitation and Water for All (SWA)
	Raman VR	WaterAid (India)
CSOs	KJ Joy	SOPHHECOM and Water Conflicts Forum
	Murali Ramisetty	Modern Architects for Rural India (MARI)
Individual WASH experts	Ravi Narayanan	Executive Director (Rtd), WaterAid
	AJ James	Consultant Economist, World Bank
	Indira Khurana	Freelance Consultant and Media Writer
Lawyers / Activists	Lovleen Bhullar	Human Rights Lawyer
	D. Narasimha Reddy	Activist and Head of Chetana, a Not for Profit Organization

Annexure 3. Details of the Group Consultations held in various locations of India with LNOB groups

#	LNOB Constituency	Person in charge and Organization	Participants number	Method of consultation	Location of the consultation
1	Transgender	Mr. Manoj Benjwal – Humsafar Trust,	12	Face to face meeting	Delhi, East Delhi and Trilokpuri, Khichipur, Ashoknagar
2	Adolescent girls	Isha Shandilya-SAFP (Sathi All for Partnerships)	13	Face to face meeting	Devgadharia, Dahod, Gujarat
3	Sex Workers	Mr. Amit Kumar/ All India Sex Workers Association	13	Zoom and Tele-conference	Various Locations of Delhi
4	Tribals	Mr. Mohammad Rafi, Modern Architects for Rural India (MARI)	15	Face to Face Meeting (Group Meeting)	Manuguru Town in Bhadradi Kothagudem District, Telangana State
5	Dalits	Mr. Rahul Manav-National Confederation of Dalit and Adivasi Organisations (NACDAOR)	14	Face to Face/Online	Aaganwadi Kendra, Rohini Sector 25, District North West, Delhi
6	Urban Poor/homeless	Mr. Sunil Aledia, Centre For Holistic Development (CHD)	22	Face to face meeting	FGD 1. Homeless Shelter code 176, Asaf ali Road Turkman Gate Delhi. FGD 2. Homeless Shelter Code 105, Yamuna Pusta, Nigam Bodh Ghat, Kashmiri Gate Delhi
7	Elderly	Mr. Maharaj Krishen Raina, Vice President, All India Senior Citizens Confederation	12	Face to face in batches due to social distancing	Shivalik Nagar District Haridwar, Uttarakhand
8	Migrants	Mr. Gopal Krishna Academy of Gandhian Studies	13	Face to face meeting	FGD in Tirupathi with respondents migrating from Adoni, Kurnool, Anantapur districts, Andhra Pradesh
9	Urban Homeless	Ms. Juhi Jain Centre for Advocacy and Research (CFAR)	14	Face to face meeting	Gautampuri South East Delhi, Okhla Janta Jeewan Camp, Peeli Mitti Park, Janta Mazdoor Colony, JJ Colony Madanpur Khadar, New Delhi
10	People Living with HIV	Mr. Sadanandam, Modern Architects for Rural India	14	Face to face meeting	Bhupalapally, Warangal, Telangana state
11	Persons with Disabilities	Mr. Krishnan, Sneha Organization	12	Face to Face and Online	Kollegal, Chamaraajanagar District, Karnataka
Total number of respondents			154		

Annexure 4. List of Key Informants for collecting the information through online questionnaire

#	Name	Organization	Position	Email
1	Sameer Kumar	Govt of India, Ministry of Jalshakthi	Joint Secretary	samirkumar@nic.in
2	Bharat Lal	Ministry of JalShakthi, Govt of India	Additional Secretary (Water)	bharat.lal@gmail.com
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4	A.K. Jain	Niti Aayog	Advisor	jainifs@rediffmail.com
5	Joy Elemon	KILA	Director	
6	Sujoy Majumdar	UNICEF	WASH Consultant	smojumdar@unicef.org
7	Vinod Mishra	WSSCC	Country Head- India	vinod.mishra@wsscc.org
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11	Swayamprabha Das	United Nations Development Program (UNDP)	Project Analyst	swayamprabha.das@undp.org
12	Dr Bilali Camara	Medical Epidemiologist, UNAIDS Country Director for India	UNAIDS Awardee for Human Rights Defenders	camarab@unaids.org
13	Vanita Suneja	Water Aid	Regional Advisor	vanitasuneja@wateraid.org
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#	Name	Organization	Position	Email
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53	Pradeep Narayanan	NA	WASH Expert	knpradeep2006@gmail.com
54	Narayan Bhatt	NA	WASH Expert	nani.bhat@gmail.com
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56	Jeevan Reddy	NA	Human Rights Lawyer	
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60	A.K. Gosain	Rtd Professor	IIT Delhi	gosain@civil.iitd.ac.in
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Annexure 5. Laws and Acts protecting the rights of LNOB groups

Act	LNOB Group	Protective Provisions
Right to Education Act (2009) ¹⁴	Children	Every elementary school in India should comply with the norm for maintaining adequate and functional toilets separately for boys and girls and drinking water facilities.
Section 18 and 19 of Factories Act 1948 ¹⁵	Workers	Ensuring wholesome drinking water, adequate, safe, clean, and well-maintained lavatories and urinals separately for men and women in all the factories in the interest of health of the workers employed there in and the same shall be inspected by the Factory Inspector
Sections 17 and 18 of the contract labour (Regulation and Abolition) Act of 1970 and Section 32 and 33 of The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 ¹⁶	Migrant construction labour	Protective provisions for ensuring adequate and safe water and sanitation facilities for the workers governed by these laws. Particularly, water and sanitation rights of the migrant workers are protected by the provisions of these laws
Rights of Persons with Disabilities Act 2016 ¹⁷	Persons with Disabilities	All measures to ensure that inclusive educational opportunities are provided including access to all other facilities for the PWDs. Under various other sections the act provisions for ensuring barrier free access to facilities and special arrangements to meet their special WASH needs have been

Act	LNOB Group	Protective Provisions
		envisaged.
The Transgender Persons (Protection of Rights) Act of 2019 ¹⁸	Transgender	Prohibiting discrimination against Transgender persons, for protection of their right, ensuring measures for inclusive services and to promote their welfare and the scope of the act provides protection of water and sanitation rights and entitlements of the Transgender persons in public places.
Scheduled Caste and Scheduled tribes (Prevention of Atrocities) Amendment Act of 1989 ¹⁹	Persons belonging to Scheduled Castes and Tribes	To deliver justice to these communities through proactive efforts to enable them to live in society with dignity and self-esteem and without fear or violence or suppression from the dominant castes. The act protects these communities from denial of water and sanitation services in the name of caste.

Annexure 6. Details of special provisions made in SBM

- (1) An exclusive section on equity and inclusion (6.9) and the specific provisions states that 'providing access to the different categories of people who are not able to access and use safe sanitation facilities shall be a priority of the implementing agencies. Women, children, people of certain castes, faiths and ethnicities, older people, pregnant women, people with disabilities (Divyangjan), geographically marginalized populations in remote areas, as well as those living in areas where it is difficult to construct simple toilets due to high water tables, sandy soils or hard rock may be given priority while planning for coverage. These categories of people may also include, among others, those who are socially and economically marginalized and those who are unable to use sanitation facilities constructed with standard designs.
- (2) Requirements and sensitivities relating to gender including dignity and safety issues shall be taken into account at each stage of planning, implementation and post implementation management of sanitation issues.
- (3) 8% of the total SBM outlay is reserved for IEC activities, and the guidelines explicitly stated that the IEC funds can be utilized for raising awareness and skills on menstrual hygiene management among all stakeholders and particularly among the adolescent girls.
- (4) Accessible toilets for elderly, pregnant women and persons with disability are emphasized in the guidelines. A technical handbook on sanitation facilities sensitive to the needs of the persons with disabilities has been produced as part of the SBM implementation guidelines. Provision for financial incentive of Rs. 12000 (60% by Union Govt and 40% by State Govt.) to eligible beneficiaries to encourage them to construct household toilets. Eligible families listed for availing the incentive support are all the families identified to be living in Below Poverty Line conditions and the families living Above Poverty Line (APL) but belonging to the categories of SC, ST, physically handicapped, landless labourers, small farmers, marginal farmers and women-headed households with priority to old age, widow and disability pensioners.
- (5) At least 50% of the Village Water and Sanitation Committees (VWSC) should be women and provided with special guidelines on 'Gender issues in sanitation'.
- (6) Third gender should be treated as equal citizens and users of toilet facilities and their needs should be considered in SBM.
- (7) Implementation guidelines also emphasized that construction of toilets should take into consideration menstrual hygiene needs. Overall, it is emphasized that SBM implementation

should not only be gender sensitive but should also become a platform that enables empowerment of women and girls and promotes human dignity.

- (8) *Recommended to states: prioritization of construction of toilets in Child Care Centres catering to the 3-5 year-old children of poor and vulnerable families.*

Annexure 7. Perceptions of LNOB groups on Sanitation Services during the Group Consultations

LNOB Category	Perceptions on Sanitation Services
Elderly and persons with disability	Deplored lack of accessible, user-friendly, safe and affordable toilets at home and in public places, as these toilets are not in compliance with the PWD user-friendly norms as mentioned in the SBM guidelines due to failures in implementation. Elderly poor reported a lack of financial resources to obtain the extra fittings needed to make the toilets accessible to them. In some public toilets, though specially designed structures are available, they are not usable owing to bad maintenance. They do not feel safe in using the toilets with ground-level squatting pan and toilets not fitted with any support devices (handle, wall-mounted arm-resting bars etc.). Elderly women from rural areas shared a high level of dissatisfaction, as they were never consulted over their choices when toilet construction was planned.
People Living with HIV	Toilets are not sufficiently available in the hospitals and counselling centres that they visit frequently, and those that are available are poorly maintained. In many cases family members discourage HIV-positive persons from using the household toilet and encouraging open defecation instead. In rural areas the situation is much worse, with no public toilets being available.
LGBTQI (Transgender)	Difficulties in accessing public toilets due to discrimination and humiliating comments by the dominant sexually orientated population, and sometimes LGBTQI persons are physically obstructed from entering the public toilet facility. Fear of molestation and abuse was also reported.
Sex Workers	Lack of a toilet is a major issue for street-based sex workers, who need them particularly after they have completed their task with their clients. Because of the fear of getting picked up or harassed by the police, sex-workers try to keep away from the public toilets. Often, they are also refused entry by the guards and maintenance staff at the public toilets and demand an extra charge for sex-workers to use a public toilet, which is not considered very legitimate. They feel the burden of paying user charges, as they have to use the toilets more often given their profession. Stigma, violence and ill treatment makes them feel insecure in using public toilets at night. In brothels, the number of toilets is inadequate, and privacy has always been impossible given the limited options regarding sanitation facilities and the common toilets. Unclean and dirty toilets that pose a health risk are also perceived as a constraint by sex-workers.
Migrants	Workers engaged in building construction reported that there are no toilets at their workplaces. Even if the toilets are available, the number of units is very inadequate, and proper lighting, ventilation and running water are commonly lacking. Toilets are only provided on the ground floor even in high-rise buildings, and workers are expected to climb down the steps to access them. Women face serious challenges in such working conditions. Migrant labour reported moving to temporary houses closer to the workplace, where a toilet is not the priority if there is an open place available for defecation. They depend on shared toilets or public toilets by spending R. 5 per use.
Urban homeless	Pavement dwellers (who live on the streets) share pay and use toilets, but these are often not affordable given the multiple uses by all the family members, hence they resort to open defecation. Pregnant women, the elderly, sick and disabled are compelled to pay when there is no free-use

LNOB Category	Perceptions on Sanitation Services
	facility near their place of residence. Homeless people living in sheltered accommodation complained of poorly maintained toilets with inadequate water supplies, but they are forced to use them, since they cannot afford 'pay and use' services.
Urban shanty dwellers	Complained about the high charges for connection to the sewerage system or to use the public toilets. In many places, slums are located at a lower elevation than the sewerage pipeline, and some of those slums that are connected to the sewerage system face reverse flows from the sewerage pipes, particularly when there is high rainfall. Rectification of these was not affordable in the perceptions of these poor slum-dwellers.
Tribals	Toilets were not affordable due to topographical challenges resulting in the high cost of construction. There were delays in transferring the incentive, as officials did not make timely visits to the remote tribal areas for physical verification of the toilets, which is a precondition for the release of the SBM incentive. In some cases, the toilets became defunct due to a lack of supplies for maintenance in remote areas. Given these constraints, tribal communities practice open defecation, particularly those located in inaccessible areas.
Youth constituency from the vulnerable communities	Satisfied with the construction of toilets in the schools, but complained about inadequate units and a lack of maintenance. In many schools toilets constructed for students are reserved for the exclusive use of the teachers, are maintained well, and are kept under lock and key, thus limiting access to the students. A lack of personnel and of financial resources for maintenance purposes is a common problem reported by young people in schools. Adolescent girls reported that school toilets did not have facilities for menstrual hygiene management and the safe disposal of sanitary pads.
Dalits	Most of them have been able to construct toilets under SBM but are unable to use them due to water shortages. Dalit habitations located on the outskirts of a main village are usually at the tail end of the supply line and therefore suffer from low water pressure and insufficient supply. A lack of financial resources to recondition old toilets and the low priority given to toilet usage leads them to resort to open defecation.

Annexure 8. Perceptions of LNOB groups on Water Supply Services during the Group Consultations

LNOB Category	Perceptions of Water Supply Services
Elderly and persons with disabilities	Most of the members of this group stated that the water-collection sources for their families are the public standpipes, the static tank, hand pumps, local streams and bottled water cans supply by vendors. In all cases the elderly and PWDs felt that physical distance and their disabilities are barriers to their collecting water and complained that no efforts were being made to make these sources easily accessible to them. A similar view was expressed with reference to the water-storage points within households, making it difficult for them to reach them. Their dependence on others to access water for drinking or to use a sanitation facility is limiting their frequency of usage, thus posing health risks.
People living with HIV(PLHIV)	Felt that the quantity and quality of the water available to them in health-care facilities and clinics do not meet their hygiene requirements. A lack of access to safe water is cited as being responsible for the high incidence of diarrhoea, cholera and other secondary infections among those living with HIV, particularly from poorer families and in rural areas.
Transgender	Difficulties in accessing shared water points and public standpipes due to discrimination; are expected to come to the public standpipes towards the end of the supply hour, after everyone else has filled their pots. The transgender community also stated that the water supply in most public places does not meet quality standards, though they are compelled to drink it, as they cannot afford to buy water costing Rs30 per 20-litre bottle.

LNOB Category	Perceptions of Water Supply Services
Sex-workers	Brothels are overcrowded given their small spaces, and water availability is also limited with compromised quality. Sex-workers perceived that the inadequate and low quality of the water causes them frequent health problems, which they must pay to cure. Hence both categories of sex-workers mentioned that, though they cannot afford to do so, they are forced to spend money buying bottled water.
Migrants	Dependent on tankers or public taps for drinking water, which they carry to their workplaces. They are hardly aware of the provisions their employers should make for them, and they do not ask for them, given the risk of losing their wages.
Urban homeless	Dependent on water sources provided by shelters, which they perceive to be unsafe in quality. Since they cannot afford to buy treated bottled water, they cope with the existing facilities. Their complaints were never addressed by the authorities concerned.
Urban shanty dwellers	Complained about the tedious documentation process and high connection charges to secure a tap connection to their houses. Those who have tap connections mentioned the problem of a lack of space for water storage, which is essential in coping with the limited supply, in some cases just once (for 45-60 minutes) every three days. Water contamination, low pressure, irregular timings, inconsistent duration of supply, high connection charges etc. are the common problems they mentioned.
Tribals	Tribal community members reported depleting groundwater levels and a lack of piped-water supply due to resource constraints (technical and financial), so they continue to depend on bore wells and local streams to collect water, which is a major cause of recurring health epidemics. Seasonal variations in water availability and quality are key concerns, irregular power supplies limit the capacity to extract and fill the OHSRs, leakages from supply lines cause water to be wasted, and unequal supply to vulnerable communities located at the far end of the supply lines are among the other reasons given.
Dalits	Dalits living in fluoride-affected areas stated that they cannot afford to buy treated water on a regular basis as it expensive: e.g. for a family of four to five members, about Rs. 300 to 500 per month, including transport.
Young people	Most young people reported that when they are at school or college they feel more secure in drinking water they have brought with them from home, which reflects the quality of the water available in educational institutions, particularly those catering to the needs of the poorer sections of the population. Girls stated that they are victims twice over, as they share the burden of fetching water at home, while at school they feel deprived of toilet facilities due to the lack of an adequate water supply.



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