

THE RIGHT PATH TO THE MAINSTREAM

For Reaching the Unreached



A Handbook on
Human Right To Water &
Sanitation in India &
mechanisms for redressal

This book is a compilation of the first-hand field experiences of the authors as well as those shared by many individuals and institutions, which the authors gratefully acknowledge.

We have tried to keep the information up-to-date and correct. However, we submit that there could be unintentional and inadvertent errors or gaps, express or implied, about the completeness, accuracy, reliability, suitability or availability with respect to the information presented in the book. We are open to corrections.

We respect all the communities whose issues are highlighted in the book, and in no part of the book is any disrespect or hurt intended. Prior consent has been taken for all the photographs used in the book - we are thankful for their participation.

The book is meant for furtherment of knowledge of all stakeholders of the WASH sector, and as such, any part of this book can be used or reproduced with due acknowledgement to the authors. Translation into other languages for use in different geographic settings is welcome.

The readers may contact the authors for any clarifications and are encouraged to send in suggestions for further refinement of the content to make it more practical and useful by all the intended users.



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01st January-2023

MESSAGE

It gives me immense pleasure to know that a book of compilations of basic concept of Human Right and the Right to water and Sanitation is being published to spread awareness among all the stakeholders.

Well intentioned development models, if imposed on the people, may not be able to deliver desired results. So, the participatory approach, inclusive in spirit and action, is the best way to achieve the goals. A slew of programmes and plans are being operationalised by various agencies; and a number of laws, rules, procedures, guidelines etc are in place to positively impact the process. Lack of adequate awareness among the targeted beneficiaries is one of the stumbling blocks which is needed to be overcome. Human Right to Water and Sanitation is a case in point, in which there are gaps, to be bridged through awareness in general and among vulnerable members of the community in particular; to smoothen the pace of progress in the sphere. A compilation of basic concepts of Human Right and Right to water and Sanitation is a step in right direction to create awareness about the available services and the mechanism to access these services.

I wish the publication all success and congratulate Purna Chandra Misra and Dr. Seetharam for bringing out this valuable book.

(Ganeshi Lal)



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Preface

Water as a basic prerequisite for life is unquestionable, non-negotiable. So is Sanitation - an integral part of Water as a basic need, and so is Hygiene - the three therefore always go bundled together as WASH. However, access to this basic need is a distant dream for millions of our community members. While successive governments have put in a lot of efforts to ensure access to water and sanitation for all, there have been many gaps in the realisation of this objective. Of particular concern is the repetitive pattern of the spectrum of coverage seen globally - with particular groups in the community being consistently left behind. These are groups of people who are socially marginalised, economically weaker, culturally left out - and there have very little political leverage. Ironically, these are exactly the groups of people that our governments have been focusing on, and civil society organisations have been struggling to bring into the mainstream.

Many international treaties implicitly consider water to be a fundamental resource and largely agree that the rights to food, health and development cannot be attained or guaranteed without guaranteeing access to basic clean water and safe sanitation. In recent years, more explicit articulations of this view supporting the right to water have been made, such as resolution of the UNO passed during the United Nations Water Conference in 1977 as under: "All people, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs."

Article 21 of the Indian Constitution guarantees the right to life to all its citizens. The Indian judiciary has attributed an expanded interpretation to the provisions in this Article, reading it to include the right to health, and the right to a clean environment which can include the right to clean drinking water and sanitation. Further, Article 39(b) of the Directive Principles of State Policy (DPSP) recognises the principle of equal access to the material resources of the community, and mandates that 'the State shall, in particular, direct its policy towards securing that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.'

Decades of experience at the grassroots have taught us that while many institutional mechanisms have been set up for incorporating these high ideals of participatory, equitable and inclusive progress, there is a major gap in the Knowledge-Attitude-Practice of all the stakeholders in this regard.

Knowledge: While there exists a framework for redressal of grievances for most of the marginalised groups, this information is known hardly to a handful. It often is an unfortunate situation of neither the provider nor the recipient having adequate knowledge about the issues and the options.

Attitudes: This is further complicated by rigidities in attitudes, which create insurmountable barriers and deep mistrust.

Practices: Practices on the ground have continued to remain suboptimal. This ironic situation of poverty amid plenty of squalor despite solutions needs to be addressed. We have seen that while good intentions are the best way to begin, they by themselves are hardly enough. Strong program focus, objective measurement of results, flexibility to incorporate course corrections, unwavering adherence to values are all integral ingredients for successful implementation of any program. Participation and ownership by all stakeholders are essential for sustaining any gains.

'Human Rights' is a term that is widely used and often abused in the Development sector. Most often, it applied in a confrontational and accusatory manner, laying the blame on the service providers. While there is no doubt that there exists an element of highhandedness on the part of authorities leading to violation of rights of the weak and the marginalised, we believe that part of the reason for such violations is inadequate understanding of concepts like Human Rights. We believe that we, as Civil Society Organisations, have to join hands with the Govt to enhance the integration of such concepts into Govt programs.

Taking a constructive way forward, we felt that there is a need to build a better understanding of the concepts of Human Rights and Right to Water-Sanitation among all the stakeholders in the sector of WASH - the Govts, the NGOs, the marginalised communities and the community in general.

Hence this humble initiative in the form of a compilation of basic information about human rights, WASH rights, & introductory information regarding the institutional mechanisms that are available for redressal of any deprivations and deviations from the stated objective of WASH for all. Apart from addressing the 'Why' and 'What' of these aspects, we have also tried to incorporate some points to cover the 'How' - by listing out the contact details of relevant departments & the methods of contacting them.


The book comprises following main parts

- 💧 An introduction to Human Rights and Human Right to Water and Sanitation, emphasising on the equal importance of Responsibilities and Rights, and the importance of WASH in the setting of Sustainable Development Goals (SDGs)
- 💧 Current scenario of WASH at National level and of Odisha State.
- 💧 A look at the marginalised sections who face deprivation of WASH, and their vulnerabilities
- 💧 The platforms available for redressal of their grievances & a simple guide on how to access these mechanisms.

It is expected that this book will help and sensitize functionaries of community-based organisation (CBO), non-governmental organisation (NGO) and government functionaries (especially at the grassroots), members of local governments and community leaders. Equally importantly, we hope this will be a trigger for positive discussion and debate among all the stakeholders and help in collective efforts towards finding appropriate solutions.

It is our humble submission that this is by no means exhaustive, and despite the best of our efforts, it is likely that there are some errors that would have crept in. This being our first attempt at a publication of this sort, while we have tried to present the matter in a particular format, there is always ample scope for refinement. We therefore invite the readers to give their feedback/comments to enable us to improve in future editions.

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We are thankful to Freshwater Action Network South Asia (FANSA), which we have been part of since its inception. FANSA, as a collective, has been a great platform for sharing and learning, and has provided us opportunities to collaborate with many national and international organisations like Sanitation and Water For All (SWA), World Water Forum, SIWI etc. We are also grateful to FANSA for kindly allowing us to use reference material from its publications.

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There have been many individuals who have contributed significantly to this compilation. We particularly thank Mr Gouri Sankar Mishra (WASH expert from Odisha); Dr Snehalatha Mekhala (former Regional Coordinator, FANSA); Asst Professor, ASCI, Hyderabad, Mr. Murali Ramiseti (Director MARI and Chairperson, Regional Steering Council, FANSA), Mr Udayshankar Singh (Chief Controller, Viswa Yuvak Kendra (VYK) and National Convener of FANSA India) who joined hands with us by providing inputs to make this compilation more complete. Our special thanks to our friends at SVYM & VYK for their help in designing the cover page and making the presentation aesthetically appealing

As mentioned, this is a compilation - which means that we have taken out the nuggets of knowledge and experiences shared and published by many experts in sectors like WASH, human rights and development, and many departments of the government. We have listed out our main sources of information, and we encourage all our readers to refer to these original documents which are sure to provide more information - richer in both diversity and in depth.

Also, this list by no means is exhaustive - we humbly acknowledge that the references provided may be incomplete, as there have been many experts who have written on these issues. Enrichment has occurred beyond the limitation of the printed word. Many of the ideas and thoughts that we have shared here have fructified over discussions and other forms of communications we have been lucky to have with various sector experts, development workers and the communities we work with. Our sincere thanks to all such experts who have enriched our understanding of the sector and its dynamics.

Purna Chandra Misra 

Dr. Seetharam M R 

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INTRODUCTION



INTRODUCTION

Water is considered the very essence of life - a prerequisite that life cannot exist or sustain without. As the Life evolved and human beings became 'civilised' we see that across millennia and across the globe, major rivers like the Nile, the Ganges, the Amazon nurtured this process of 'civilisation'. With civilisation dawned the concepts of Sanitation and Hygiene - and became visible hallmarks of progress. Water, and the related behavioural components of sanitation and hygiene, have been important determinants of Development, contributing to all other dimensions that are relevant for human progress - including reducing disease, death and suffering, promoting positive health, longevity, education, prosperity and peace.

Despite such an obvious & inextricable link between Water-Sanitation & Human Advancement, there are grave causes for concern.

Analysis of the figures from the recent Joint Monitoring Program report (Progress on household drinking water, sanitation and hygiene 2000-2020: Five years into the SDGs. Geneva: World Health Organization (WHO) and the United Nations Children's Fund (UNICEF), 2021) indicates encouraging progress between 2015-2020:

- ◆ Safe sanitation usage increased from 47% to 54%; open defecation dropped by a third (494 million compared to 739 million) with major gains in rural areas.
- ◆ Safely managed water supply was being accessed by 74%, increase from 71%. Rural coverage increased from 53 to 60%, urban from 85 to 86%.
- ◆ The proportion of people with basic handwashing facilities at home increased from 67 to 71%. The rate of improvement in rural areas was greater than in urban areas.

Despite these gains, there is great cause for concern. The phenomenon of the proverbial 'last mile' is becoming more prominent, with great challenges in reaching the difficult to reach. Some statistics that ring the alarm bells loud include:

- ◆ 3.6 billion people lacked safely managed sanitation. 2 billion people lacked safely managed water services. 2.3 billion did not have basic services, with 670 million not having Hand-washing facilities at all.
- ◆ Rural Urban divide continues to widen, with 2/3rd of those lacking basic sanitation and 92% practising open defecation living in rural areas. Eight out of ten who lacked basic services lived in rural areas. The gap in rural vs urban coverage was more than 20% in 16 countries.
- ◆ Urban WASH challenges are gaining prominence, with a huge increase by 32 million in the number of urban dwellers lacking safe sanitation.

At the current rates of progress, the report warns that by 2030, the world will be able to achieve

- 💧 sanitation coverage of only 67%, leaving out 2.8 billion people without safely managed services.
- 💧 water supply coverage of only 81%, leaving out 1.6 billion without safely managed water supply
- 💧 handwashing coverage of only 78%, leaving out 1.9 billion without safe hygiene facilities

The report further states that a minimum of 4-fold acceleration in the rate of progress is essential for any hope of achieving the SDG 6 targets, with variations across the three components of water, sanitation and hygiene, and across different geographic, social and political settings.

These and other similar statistics from across the world indicate that there exists significant proportion of the global population who continue to suffer in multiple ways due to the lack of access to what is considered one of the most important prerequisites for life itself - namely water and sanitation.

Addressing such inequities requires that all stakeholders understand each other's importance, respect each other's needs, acknowledge each other's contributions & fulfil their responsibilities towards each other.

The human rights approach provides an excellent framework for such an understanding to emerge.

This publication is an attempt to simplify and present some basic information so as to promote an understanding of the rights to water and sanitation. It is a compilation of some fundamental concepts related to human rights and their close link to the rights to water and sanitation, drawn from international and national declarations, policy statements and scholarly articles. We have tried to present some examples of how they are incorporated into the global policies and strategies like the Sustainable Development Goals (SDGs).

The main purpose of this exercise is to understand the challenges of deprivation from the point of view of the deprived, and also unfold & present some modalities that exist within the framework of the existing system of governance for redressal and remediation of the lacunae that exist.

Rights always go hand-in-hand with responsibilities, and it is imperative that even as we insist on fulfilment of rights, every section of the society behaves in a manner that reflects responsibility, and promotes the lofty values enshrined in the umpteen declarations and policies of international and national bodies.



The Web of Life

Every life form on earth has a right to the resources that are available for its own survival, growth and procreation.

The Web of Life connects each life form to the other in such intricate ways that survival of one species is dependent on the survival of many other life forms as well as sustainable availability of life resources.

Human Rights And The Human Right To Water & Sanitation - Definitions And Components



HUMAN RIGHTS AND THE HUMAN RIGHT TO WATER & SANITATION – DEFINITIONS AND COMPONENTS

Human rights are rights that are inherent to all human beings, irrespective of gender, sex, age, ethnicity, religion, nationality, place of stay, colour, race and other categorisations. As all human beings are entitled to them, Human Rights must be non-discriminatory and inclusive.

According to the international human rights framework, every human being, anywhere on the planet, is entitled to fulfilment of his/her needs for achieving his/her potential - a process that is envisioned as development. This right is born with the human being, bestowed upon him/her by birth, and inalienable from his/her existence. There have been continuous efforts to define, codify and clarify the contents of this basic concept in the decades since human rights were first conceptualised - and these have collectively crystallised as the concept of human rights.

Human Rights are described in different categories, which include:

- 💧 Civil rights (Eg.- rights to life, liberty and security),
- 💧 Political rights (Eg. - rights to equality before the law and to legal protection and),
- 💧 Economic rights (Eg.- rights to work, to own property and to receive equal pay),
- 💧 Social rights (Eg. - rights to education, right to participate in social structure and institutions, to consenting marriages),
- 💧 Cultural rights (Eg. - right to participation in cultural practices of the community)
- 💧 Collective rights (Eg. - right to self-determination).

Universal Declaration of Human Rights, Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Many international declarations and covenants have identified, acknowledged and recognised safe water and sanitation as being integral to human rights. Access to safe water and sanitation are recognised as human rights by the United Nations, reflecting their vital importance to every person's life. The General Comment No. 15 on The Right to Water (Arts. 11 and 12 of the Covenant), which was adopted at the Twenty-ninth Session of the Committee on Economic, Social and Cultural Rights, on 20 January 2003 (contained in Document E/C.12/2002/11) explicitly states that 'the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses'.

It is to be understood and accepted that variability and diversity is the rule in nature. Differences in personal, social, cultural, economic, political and other domains tend to lead to differences in access to and enjoyment of resources by different sections of a community.

Such differences exist across communities, across individuals within a single community, and also across periods of lifetime of an individual. It can therefore be surmised that, while all human beings are entitled to human rights, not all human beings experience these rights equally throughout the world, & nor are they uniformly enjoyed by all at all phases of life.

While acknowledging this variability, it must be emphasised that any exploitation of the weak, and any sequestration of resources by the powerful goes against the acceptable norms of 'civilisation'. It is the duty of the collective to prevent such wilful acts of exploitation.

The role of governments

Governments, being representative of the collective conscience of the community, have a major responsibility in addressing inequities. People are considered rights-holders and governments as duty-bearers responsible under law to ensure that people's human rights are fulfilled and realised. This duty extends to the rights to safe water and sanitation as well - rights-holders can claim their rights and duty-bearers have an obligation to progressively realise the rights to water & sanitation equally & without discrimination. Fulfilling this obligation requires that governments should act responsibly and that the values of human rights are incorporated into the relevant national and sub-national laws, policies, strategies and implementation processes. A strong monitoring and evaluation system should be in place to ensure that the high objectives envisaged are being achieved in letter and spirit. Any deviations and inequities have to be dealt with by a responsive and responsible redressal system.

It is the responsibility of the respective governments to **Respect, Protect and Fulfil** all components of human rights, including the rights to water and sanitation, to ALL segments of the society without discrimination.

Respect

- Maintaining access - The government has a duty to ensure that its agencies & projects do not interfere with the access to water and sanitation that any community already has access to
- Non-retrogression - The government has to ensure that a facility / access that it created is not removed or allowed to become non-functional

Protect

- Regulate third parties - diligently ensure that no private actor interferes with the right to water & sanitation of any individual /community by adopting appropriate legislation to protect water sources, quality & supply
- Align & provide for the right to water & sanitation in line with other human rights

Fulfil

- Facilitate the right to water and sanitation for all through appropriate legislative and other means
- Promote the right to water and sanitation through appropriate education and behaviour change
- Provide support to proactively ensure enjoyment of the right to water for marginalised communities

The Governments are expected to fulfil the following five main functions ('Realising the Human Rights to Water & Sanitation: A handbook' by the UN Special Rapporteur Catarina de Albuquerque)

Creating Legislative, Policy and Regulatory frameworks

which ensure prioritisation and implementation in a contextually relevant manner with emphasis on equity, inclusion and participatory decision making.

Financing and Budgeting

There should be adequate allocation of resources for the realisation of proposed policies, with adequate check and balances in ensuring integrity and transparency.

Services

Fulfilling the Human Right to Water and Sanitation implies well designed implementation plans with requisite financial and human resources, and well-defined quality standards which comply with accepted norms.

Monitoring

it is the duty of the state to ensure that the implementation of the interventions is constantly monitored and evaluated, so that any deviation from the ideals and Values of Human Rights is identified early and course correction is applied immediately. This calls for a high sense of transparency and accountability at all tiers of governance.

Access to Justice

Creating a system for delivery of Justice is the first step in ensuring Justice; it is as important that the State puts in efforts to identify segments of the community which are at risk of being deprived and creates a environment of security and confidence. It is necessary to create a system of redressal at specific tiers of governance, and going beyond geographic borders, create a international - global system of justice delivery.

The components of the rights to water and sanitation

The right to water and sanitation is an evolving concept. Water being an essential component of multiple dimensions of human activities makes it an integral part of all these dimensions, and guaranteed access to water for all these applications is desirable. The realisation of human right to water enables a life of dignity and is a stepping stone for the realization of other human rights.

The most basic component of the rights to water & sanitation is obviously that of access to life-nurturing drinking water & access to safe sanitation providing protection from life threatening diseases.

Components of Right to Water

The UN General Comment No.15 on the Right to Water, which was adopted in 2002 interprets the Articles 11 & 12 of ICESCR & defines that Human right to water entitles everyone to sufficient, safe, acceptable, physically accessible & affordable water for personal & domestic uses.

The Right to water would be fulfilled only when the water provided fulfils the following criteria:

Sufficient - Quantity

Adequate for all daily needs for the person, the family and their livestock. The exact quantity in terms of litres per capita per day is not set in stone, as it depends on many social, cultural, economic, climatic conditions. Hence, going away from fixing a specific 'measure', it is desirable to ensure flexibility for the local communities to determine the minimum quantity of water supplied. This opinion of experts from all over the world is reflected in the National policies on Drinking Water in India, wherein the concept of Water budgeting and relative autonomy to fix the basic minimum of water to be supplied per capita has been accorded to local governments. This said, it is expected that for a minimum of 30-55 LPCD of water is essential for a decent standard of living as an acceptable target.

Safe - Quality

Quality of water refers to safety from diseases caused through water. Water can cause and spread diseases which are often fatal, and contribute hugely to the global disease burden as measured by mortality and morbidity. Water borne illnesses of public health importance include microbiological diseases like cholera, diarrhoeas, dysenteries, amebiasis etc and chemically mediated illnesses like fluorosis, arsenicosis etc. Safety standards have been developed by experts across the globe and have been endorsed and adopted by national governments. It is important to remember that water not only acts as a vehicle for disease causing agents but also is a favourable medium for multiplication of disease spreading vectors.

Acceptability

Community's acceptance of source, safety, form and supply of water is an important component of the right to water. This is determined by many social and cultural norms, and is often an issue of major conflict and strife when communities are barred from using specific sources of water.

Accessibility

Water being available when needed and where needed is again a prerequisite that right to water envisions to guarantee to all. Time spent in collecting water is a major concern, with many communities having to spend many hours every day to reach a water source, collect water and walk back to their homes. It is desired that the source of sufficient and safe water be available right at the doorstep, ie, in every household. A more practical and realistic goal would however be to ensure that the source of safe water is not more than 1 km by distance, and takes not more than 30 minutes for collection.

Affordability

All members of the community should be able to get sufficient, safe water irrespective of the paying capacity. The ever-increasing divide between the Haves and the Have-nots unfortunately gets reflected in the provision of Water as well, with the needs of the poor and the weak often sacrificed at the altar of the needs of the rich and the powerful. Right to Water envisions a state wherein safe water is available to all irrespective of their socio-economic status.

Going beyond this basic understanding of the right to water, the holistic concept of the right to water as described by the World Health Organization (WHO) recognises the role of water in all dimensions of life, and provides for water rights in the following components:

- 💧 Water for daily needs and consumption
- 💧 Water for food (including the production, processing and preparation of food)
- 💧 Water for environment and environmental hygiene
- 💧 Water for health
- 💧 Water for cultural practices
- 💧 Water for livelihoods
- 💧 Water for households and adequate housing

Water for Daily needs and consumption

Water for daily needs and consumption includes that minimum quantity which is essential for every human being to keep the physiological functions running. It is estimated that it ranges from about 2 to 4.5 litres per day. In addition, water is essential for cleaning and cooking food that is consumed and for the livestock. Also to be included here is the fulfilment of water needs for one's basic hygiene and upkeep including ablutions washing bath, etc.

Water for Food

Inherent to the right to adequate food is the fulfilment of the water requirement for growing food including agriculture and livestock. Globally nearly 70% of all water resource use is for agriculture, and adequate foodgrain production depends on the efficiency of this water usage. Non-fulfilment or non-availability of adequate quantity of water for agriculture soon escalates into a serious shortage of food with its resultant impacts.

Water for Environment and Environmental Hygiene

Human existence is intimately intertwined with other life-forms on the planet which are in turn heavily dependent on water. The natural ecosystems which are nurtured by water sources exhibit the value of interdependence species. Without water, these ecosystems would suffer, soil would dry up, forests would wither, and species would face risk of extinction.

Water for Health

The role of safe water in ensuring healthy communities cannot be overemphasized. Water, verily, is life and this means a healthy life. Water is a vehicle for taking essential nutrients into the body and for taking toxins out of the body. If this is reversed and water becomes a vehicle for toxins and disease-causing agents to get into the body, the result can be disastrous.

Water for Cultural Practices

Water basins have historically been the cradles of civilisations where cultures have evolved and flourished. It is therefore understandable that usage of water has become an integral part of traditional cultural practices including religious ceremonies. A case in point is the sanctity that is accorded to rivers in India especially the river Ganga. Water similarly finds a prominent place in rituals of other religions as well.

The right to water would be violated if adequate steps are not taken by the governments to safeguard these cultural needs of the community. This is particularly applicable to the indigenous populations, with UN General Comment 15 on the right to water clearly mentioning that access to traditional water sources be protected from unlawful encroachment & pollution.

Water for Livelihoods

Water is an essential prerequisite for almost all livelihoods. While this is very visible in livelihoods like agriculture, it is no less important in the industrial sector where apart from the obvious use of water in the factory, the very running of an industry is dependent on the power that is often generated using water. It is important to consider the impacts of water on multiple livelihoods when major plans are unveiled for water resource management.

Right to water is closely linked to the right to work as well.

Water for households and adequate housing

A dwelling that does not have a source or an easy access to water is not considered livable. Thus, the right to water is closely linked to the right to adequate housing.

Components of Right to Sanitation

Sanitation can be defined as a system for the collection, transport, treatment and disposal or reuse of human excreta and associated hygiene. It is the responsibility of the States to ensure that everyone without discrimination, has access to sanitation which is

- 💧 Safe
- 💧 Hygienic
- 💧 Secure
- 💧 Socially and culturally acceptable
- 💧 Provides privacy
- 💧 Ensures dignity

Similar to water services, sanitation services as understood through the lens of right to water and sanitation should fulfil the following considerations -

Availability - Availability of the facility has to be ensured

- 💧 In individual households,
- 💧 In institutional settings like schools, hospitals etc, in workplaces and in public places like hotels and bus stands.
- 💧 It is also important to provide for enough number of units based on the number of users, so that the facility can be used at the time of need without much waiting.

Quality - Quality considerations in the sanitation facilities include

- 💧 Hygienic disposal of the human excreta
- 💧 Infrastructural safety in the form of safe walls, floor, roof
- 💧 Technology used should be such that there is no risk for the sanitation workers involved in the upkeep and final disposal of the fecal matter is done in a manner that is environmentally safe

Accessibility - In terms of physical accessibility, care should be taken such that

- 💧 Distance to the sanitation complex is easily manageable
- 💧 Access leading to the facility is easy and free from hindrances
- 💧 Barrier-free access is provided to users with special needs like the PwDs, the elderly, the sick and the ailing
- 💧 Supporting requirements like water, cleaning materials are provided

Affordability - The sanitation facilities provided should be affordable for the individuals and the communities so that

- 💧 Capital investment for creating the infrastructure is cost-effective
- 💧 Maintenance of the unit is not beyond reach
- 💧 Supporting requirements like water are also provided at an affordable cost

Acceptability - It is common observation at the grassroots that much of the infrastructure created for sanitation is either lying unused, or being used for other purposes. It is therefore important that the services are acceptable from the following perspectives:

- 💧 Practices around water and sanitation have been influenced strongly by social and cultural practices. It is therefore important that the services provided be acceptable to the users in their location, design, usage, gender equity, special needs like menstrual hygiene.
- 💧 Safety and acceptability to the sanitation workers involved in maintenance.
- 💧 Environmental and socio-cultural acceptability of the technologies involved, including the final disposal.

A distinction has to be made between the concepts of Willingness-To-Pay and the ability to pay. There have reports of communities expressing their willingness to pay for certain water-sanitation facilities, which are cited as community acceptance and as justification for levying charges for WASH services. It is important to remember that WASH being a basic prerequisite for existence itself, people are likely to express their 'willingness' out of sheer compulsion, even if they can ill-afford the costs. The role of governments becomes especially important in ensuring that appropriate measures are put in place both at the policy and at implementation level to ensure equitable and inclusive services for the community.

Further, it is important that all the services provided for access to water and sanitation are rolled out in a transparent, non-discriminatory inclusive manner.

Advantages of defining water and sanitation as a human right

A rights-based approach to water and sanitation can accelerate progress towards the goal of universal access to safe water and safely managed affordable sanitation services.

The main advantages that this approach offers include:

- 💧 Fresh water is a legal entitlement, rather than a commodity or service provided on a charitable basis dependent on the largesse of the Haves towards the Have-nots;
- 💧 Achieving basic and improved levels of access to safe water is the objective, and this process should be accelerated and achieved against reasonable timeframes;
- 💧 The "least served" are better identified and better targeted in the roll-out of the services, and therefore inequalities in access to safe water are decreased;
- 💧 Vulnerable communities and groups are empowered to take part in decision-making processes;

- 💧 The means and mechanisms available in international law, international relations and commitments, and the United Nations human rights system would be applicable to monitor the progress of governments in realising the right to water and to hold governments accountable for their actions.
- 💧 Sensitising the rights-holders as well as the duty-bearers regarding their rights as well as responsibilities, bringing them closer and building trust and collaboration for achieving the common goal.
- 💧 Empowering communities for participatory implementation of appropriate demand-driven initiatives.
- 💧 Increasing mutual accountability.
- 💧 Advocating with the government for ensuring inclusive progress & for appropriate grievance redressal.
- 💧 Strengthening public - public partnerships.
- 💧 Application of evidence-based planning at local level.

International perspective of the human right to water and sanitation

The United Nations Water Conference of 1977, held in Mar Del Plata, was the first intergovernmental meet on identifying and addressing challenges related to water which was attended by key stakeholder groups from 105 countries. The conference collectively recognised that "all peoples, whatever their stage of development and social and economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs." (Mar Del Plata Action Plan, page 63). Many other international declarations have also recognised this concept and have explicitly and/or implicitly reiterated that, water and sanitation being a fundamental resource, the rights to food, health and development cannot be attained or guaranteed without guaranteeing access to basic clean water and safe sanitation.

The United Nations General Assembly and the Human Rights Council explicitly recognised human rights to water and sanitation in 2010. Three years later, the Human Rights Council agreed on the comprehensive normative content of these rights.

Fifty two countries across the world have recognised right to water and sanitation in law or in policies and there have been many supportive legal interpretations in national and international courts that uphold the right to water and sanitation either by itself or as part of another more explicit entitlement. (Brunner, Norbert & Mishra, Vijay & Sakthivel, Ponnusamy & Starkl, Markus & Tschohl, Christof. (2015). The Human Right to Water in Law and Implementation. Laws. 4. 413-471. 10.3390/laws4030413.) This includes India, where constitutional provisions like the right to life, right against discrimination etc have been interpreted to be inclusive of right to water and sanitation.



World map of 52 countries that accept the human right to water and sanitation in laws or policies; From Brunner, Norbert & Mishra, Vijay & Sakthivel, Ponnusamy & Starkl, Markus & Tsochhl, Christof. (2015). *The Human Right to Water in Law and Implementation*. *Laws*. 4. 413-471. 10.3390/laws4030413

In the Discussion Paper "Towards Understanding the Right to Water and Sanitation" published by Wateraid India, the authors list out 21 important international covenants and declarations which uphold the right to water and sanitation either implicitly or explicitly (Towards Understanding the Right to Water and Sanitation Discussion Paper WaterAid India, July, 2009; Indira Khuran, Romit Sen, Richard Mahapatra, WaterAid India, Priya Tripathi, TERI University)

Explicit and implied references to the rights to water and sanitation in public international law include:

- 💧 **Art. 38 (1)** of the statute of international court of justice is relied upon in determining the sources of international law for the purpose of all legal analysis.
- 💧 Although no direct mention of water is made in the UN charter, the central role played by water is implicit in the articulation of the goal of the UN charter in Art. 55 (A) which clearly mentions ensuring the highest standard of living.
- 💧 **Article 25** of the **Universal Declaration of Human Rights** adopted by the United Nations General Assembly in 1948 states that everyone has a right to standard of living adequate for health and wellbeing of himself and family
- 💧 **Geneva Conventions and Protocols** explicitly recognise the right to drinking water in Art 20, 26, 29 and 46 Geneva convention III (1949). Art 85 89 127 Geneva convention IV (1949), Art 54, 55, Additional protocol I (1977), Art 5 and 14, additional protocol II (1977)
- 💧 The human right covenants 1966, the International Covenant on Civil and Political Right (**ICCPR**) and the International Covenant on Economic, Social, and Cultural Right (**ICESCR**) implicitly recognise a right to water
- 💧 Article 8 (1) of the Vienna declaration clearly expresses the right to development.
- 💧 The Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and conventions of child right treaties have direct reference to a right to water.

The Stockholm declaration, Mar Del Plata Action plan (1977), Dublin Principles, Agenda 21 are all important global instruments where the right to water and sanitation has been recognised.

At the regional level, there have been many processes which have clearly spelt out the international sentiment in favour of recognising the human rights to water and sanitation. The importance of water as an essential prerequisite and key enabler for sustainable development is repeatedly mentioned in various declarations at the South Asia level like the South Asian Association for Regional Cooperation (SAARC) federation.

The South Asia Conference on Sanitation (SACOSAN) has been the platform for all South Asian governments to affirm to their nations and to the international communities their commitment to ensure inclusive and equitable progress in WASH.

Apart from the Declarations, Protocols and Covenants dealing with WASH and with development, attention on WASH has also been emphasised by various platforms working with specific vulnerable groups. This includes the rights of persons with disabilities, the rights of indigenous communities, women, the elderly, People living HIV-AIDS (PLWHAs), the Lesbian-Gay-Bisexual-Transgender-Queer (LGBTQ) community, refugees, homeless people, urban shanty dwellers etc.

The fact that the rights to water and sanitation are implicitly and/or explicitly mentioned in such a large number of international declarations and protocols highlights the importance of these rights and strengthens the commitment of national governments across the globe to ensure that the rights to water and sanitation are incorporated into their respective national agendas and policies.

In spite of significant progress with many best practices being documented and shared from different countries, the realities on the ground continue to be a mixed bag. Deprivation of basic amenities to many segments of the community continue to exist, and is contributed to by a myriad of social, cultural, economic, political and governance-related factors. There is a significant WASH divide - and the patterns of such deprivations and exclusions have been dynamic and evolving in recent decades. While rural communities for long were considered the 'deprived', phenomena like unregulated urbanisation and internal migrations have resulted in creation of pockets in urban areas which are facing severe WASH challenges. Situations of extraordinary crises - like wars, conflicts, natural disasters, the recent COVID pandemic - have further accentuated the WASH divide. Poor WASH and basic facilities have in turn crippled progress in other sectors like Health, Education and Livelihoods.

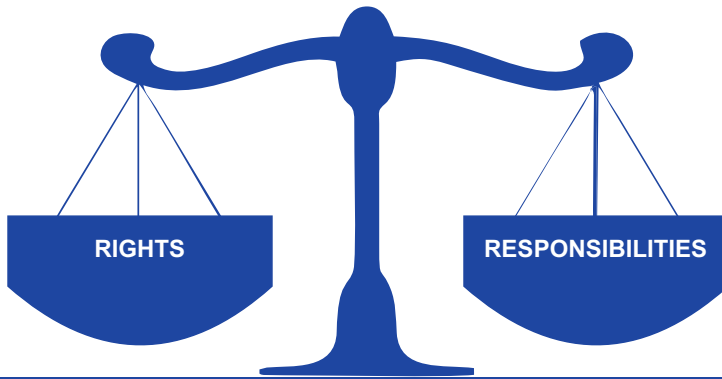
Thus, there has been a vicious cycle in operation - with marginalised segments getting further neglected, and the better-endowed segments of the community cornering significant proportions of the benefits of the progress achieved at the national level. All too often, states have been seen to go into a denial mode, refusing to recognise the 'elephant in the room'. Such denials have only led to further widening of the WASH divide, with resultant repercussions in all dimensions of development.

The challenge in front of us now is the translation of human rights obligations from theoretical debates into meaningful action at the grassroots . It is necessary to place the human right to water and sanitation firmly at the centre of legislation, policies and regulations, thus also ensuring that those who do not fully enjoy this human right have access to redressal and justice.

The Rights Vs Responsibilities Conundrum

The issue of Human Rights has been in the limelight in different parts of the world especially over the past few decades. It is often spoken of as the panacea for all ills of the marginalised communities by some segments of development thinkers and workers. However, a deeper look at the processes around inclusion and equity and the dynamics of development in the recent years in different parts of the world indicate that there are many ill-understood issues which contribute to the escalation and persistence of rights violation. It is also noticed that many purported solutions themselves lead to worsening of the situation by precipitating new unforeseen challenges for both the affected communities and the alleged perpetrators and the system. The persistence of challenges despite serious & sincere attempts at repeatedly highlighting and advocating for human rights indicates that there are perhaps reasons beyond just rights denial which are contributing to this variety and the intractability of the problem. It might be too simplistic to assume that mere beating of drums from rooftops about human rights denial would solve all problems. The solution perhaps lies in a more balanced approach with a deeper understanding of the rights and their implications in certain given circumstances rather than applying Universal one-size-fits-all interpretation of human rights. Long standing solutions to societal problems can be achieved only collective action driven by an underlying shared objective of well being of all members of the community. This implies an approach where the point being highlighted is not only the negativist 'denial of rights' but is concomitant nurturing of the positive value of contributing to the community good. Upholding & nurturing such values are indeed foundational in building resilient and happy communities, where each one plays a role for the sake of the other, however different they may be.

In this context, it is important to deliberate about the other R that matters-namely Responsibility, even as we try to understand the intricacies of Rights. Even as the impacts of denial of Rights are important and are non-negotiable, it augurs well to remember that Rights exist for ALL, including the so called Duty-bearers. Similarly, Responsibility is not merely the burden of the Duty Bearers, but also of the Rights Holders. While the nature, the content, the imports of the Rights and Responsibilities of the two parties are significantly different, it is important to acknowledge that these two R-s co-exist concurrently and NOT sequentially, for BOTH the parties.



When 'Rights' can actually be Wrong!

"I have my Cultural Rights to perform activities and rituals in water bodies"



"Is my action adding to the pollution, thus compromising Safety of Water?"

"I have my Right to Livelihood and will use insecticides and pesticides to get more yield"



"Is my indiscriminate use of chemicals making food crops harmful and causing harm to the water bodies?"

"I want to get maximum profits from my industry, and it is my Right to decide how I cut costs and overheads"



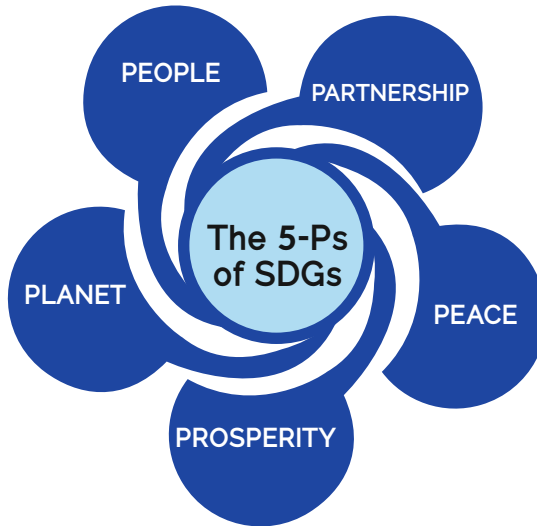
"Am I compliant with the pollution control norms? Am I harming the environment by letting out toxic effluents?"

SUSTAINABLE DEVELOPMENT GOALS,
HUMAN RIGHTS AND
RIGHT TO WATER-SANITATION



SUSTAINABLE DEVELOPMENT GOALS, HUMAN RIGHTS AND RIGHT TO WATER-SANITATION

The Sustainable Development Goals set the Agenda for the state of Development envisioned to be achieved by 2030. These goals were arrived at thro a participatory global process, with adequate room for contextualisation for each country, given its own social, economic, political, cultural realities.



The Framework for Sustainable Development sets out the Guiding Principles for all nations to be adhered to in their pursuit of the Goals. There is a clear representation of the need for equitable progress, with provision for ensuring adequate inclusion and participation of all stakeholders. "Leave No One Behind" or LNOB has become a reverberating slogan across the Development sector, and all stakeholders are being sensitised this principle so that marginalised groups who often are neglected are also included in the journey towards the desired goals.

The Guiding Principles

- ◆ National Ownership
- ◆ Inclusive and Participatory
- ◆ Universality
- ◆ Leave No One Behind; Reaching the Farthest First
- ◆ Human Rights Based Approach
- ◆ Integrated Approach to Sustainable Development

Of importance is that fact that the SDGs urge all nations to adopt a Human Rights Based approach as this would be a sure-shot way of ensuring that the proverbial last mile is also served as envisaged.

The SDGs touch all dimensions that are essentials for holistic sustainable human development, and set out broad Goal statements for each of these dimensions.

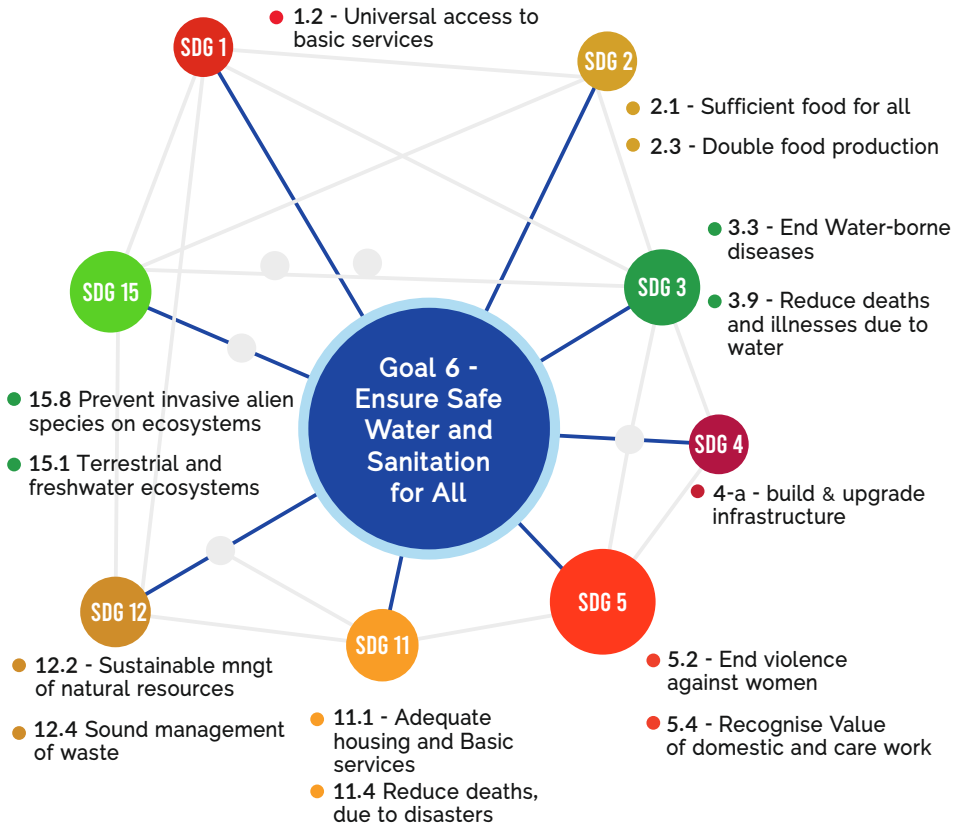
Water and Sanitation are obviously critical for development and are rightly enshrined as a separate Goal - the Goal 6. The SDG 6 itself is elaborated in 6 subheadings, the targets, covering the wide gamut of issues ranging from the most basic - namely access to drinking water - to the larger interests of ensuring safer and sustainable ecosystems. The SDG framework also outlines two strategies for achieving these targets.

- 6.1 Achieve universal and equitable access to safe and affordable drinking water for all
- 6.2 Achieve access to adequate and equitable sanitation and hygiene for all, and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations
- 6.3 Improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater, and increasing recycling and safe reuse by x% globally
- 6.4 Substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity, and substantially reduce the number of people suffering from water scarcity
- 6.5 Implement Integrated Water Resources Management at all levels, including through transboundary cooperation as appropriate
- 6.6 Protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes
- 6.a By 2030, expand international cooperation and capacity-building support to developing countries in water & sanitation related activities & programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies
- 6.b Support and strengthen the participation of local communities for improving water and sanitation management

The SDG framework accepts and reiterates the interconnectedness of all the dimensions of Development - often called the Web of Interconnectedness. The SDG6 is no exception, and progress in WASH related targets is closely linked to and dependent upon progress in many other SDGs.

There are multiple goals which contribute to the achievement of SDG 6; and in turn, progress in SDG 6 will benefit progress in multiple other goals.

Interdependency of SDGs on Water



This clearly indicates the criticality of collaborative functioning across different stakeholders, discharging key responsibilities in progress on different SDGs.

THE MARGINALISED GROUPS AND THEIR VULNERABILITIES



THE MARGINALISED GROUPS AND THEIR VULNERABILITIES

It is well recognised that no society is homogenous, and disparities and diversities are the norm. These diversities and differences inevitably lead to disparities in the fulfilment of basic services to different sections of the community. This is true to the sector of water and sanitation, as it is to other dimensions like health, education, livelihoods and socio-political empowerment. It is the responsibility of the governments, and the community itself, to ensure that progress is as inclusive as possible and that no individual or group is left out of the advantages flowing from progress.

CSOs working in WASH and Human Rights, given their reach and close rapport with the communities, have consistently recognised and responded to the unmet needs and have provided succour to the deprived groups. Situations of crisis which accentuate the lack of WASH and other basic facilities have compelled all agencies to join hands and work together. Civil society organisations have been consistently raising these issues at local as well as national platforms and have successfully highlighted the plights of specific marginalised high-risk groups, which has led to significant improvement in the process of reducing the disparities.

Some of the main such marginalised groups include :-

- 💧 Sanitation workers, Manual Scavengers:
- 💧 Waste pickers
- 💧 Slum Dwellers
- 💧 Persons With Disability
- 💧 Elders
- 💧 Women
- 💧 Adolescent Girls, Children
- 💧 Sex Workers
- 💧 Homeless
- 💧 Migrant workers
- 💧 Tribal communities
- 💧 LGBTQ community
- 💧 Minority communities
- 💧 Refugees

Sanitation workers, waste-pickers and the manual scavengers bear the brunt of the hard task of keeping the city clean. However, they often find themselves forced to live in squalid settings with extremely unhygienic conditions. It is ironic that the segment of population which keeps the city clean is forced to live in unclean environments. The first component of this neglect is often the basic prerequisite of water and sanitation. It is common to find individuals of this group living in clusters - partly due to economic compulsions and partly as an imposition of the age-old relational practices in Indian communities driven by the caste divisions and the resultant stratification of the social positions.

Understanding The Vulnerability –

THE SANITATION WORKERS



- ◆ **'We clean the whole world, but how about our own cleanliness'** - Sanitation workers are the foot soldiers for keeping the world clean, but they live in very squalid conditions
- ◆ **"Everything we touch and handle is potentially harmful, yet there is no protection"** - Sanitation workers are most exposed to toxic materials as they handle waste from toilets, sewage lines, solid waste collection and management sites, hospitals, diagnostic labs and waste treatment plants etc but their access to safety gear is abysmally low
- ◆ **"We are needed for everybody's Health, but how about our own health?"**- There is absolutely no safety net for ensuring Health and safety of the Sanitation Workers, despite the risks that they are exposed to.
- ◆ **"No guarantee of payment for work done, no guarantee of continuation of work"** -Though an essential service from the community point of view, the Sanitation Workers neither have any job security, nor have been consistently or adequately compensated

(From: FANSA- Voices of the vulnerable on WASH services)

The locations where these communities live are often tenements which go by the terminology of 'slums'. While people engaged in multiple vocations do stay in slums, it is a usual observation that the majority of slum dwellers are engaged in some form of work related to sanitation, scavenging and waste management.

This relegation to the ghetto-like clusters imposes a deprivation that goes beyond mere water and sanitation. This also includes a much larger lack of access to other facilities which determine quality of life. In addition, these communities face gross insecurities related to their livelihoods and are often exploited by the contractors to whom they are obliged for their daily employment.

Understanding The Vulnerability –

THE URBAN SHANTY DWELLERS



- ◆ Classic case of 'Poverty Amid Plenty' - slums right in the middle of the glamour of urban progress, where people are deprived of even basic amenities
- ◆ Crowding, cesspools, poor WASH, poor nutrition, risky jobs... Unhygienic living conditions which predispose residents to poor health and high risks of disease.
- ◆ Houses hardly have walls and doors, let alone toilets - so no question of privacy and dignity specially for women and girls.
- ◆ Nonfunctioning, Malfunctioning WASH services - low in quantity, zero in quality and poor access overall !

(From: FANSA- Voices of the vulnerable on WASH services)

Understanding The Vulnerability –

PERSONS WITH DISABILITIES AND THE ELDERLY



- 💧 **'Can't do it alone'** - High dependence on 'others' for WASH needs makes us feel shy & guilty
- 💧 **'We need more, but get less'** - Water, sanitation and Hygiene needs for PWDs are actually higher, but in reality get much less.
- 💧 **Facility Available, but yet NOT available** - Most public WASH facilities are 'Inaccessible' for PWDs.
- 💧 **'No response to our cry for help'** - Lack of response from families, community & Governments.

(From: FANSA- Voices of the vulnerable on WASH services)

Persons With Disabilities and the Elderly face challenges that are similar in nature. They have special needs which, more often than not, go unrecognised and therefore, unfulfilled.

The need for water, sanitation and hygiene is in fact higher for this group considering that they not only need more water more often for personal upkeep, they are also dependent on a caregiver to fulfil this very basic human need. It is sad to see that these vulnerable individuals are often forsaken even by their close family members. Fulfilment of water-sanitation needs for this group involves some basic infrastructural changes which are often out of reach of these families. Thus, financial constraints magnify the attitudinal barriers and create immense challenges in fulfilling even simple tasks of daily life.

Understanding The Vulnerability – *WOMEN*



Women face deprivation and marginalisation in virtually all walks of life despite being equal partners in the path towards development and being equally numerous in all communities. This deplorable practice has been almost universal in all parts of the world and has persisted over centuries. Despite being the work horses of the WASH sector, women are always low on priority when it comes to their needs being met. Adolescents, with their physical, mental and emotional maturation and modifications, face new challenges which need the basic guarantee of water and sanitation. This is especially true of adolescent girls. Menstrual hygiene is a taboo subject and is unfortunately neither shared nor addressed, leading to physical as well as emotional trauma.

There have been numerous instances when women have confessed to having avoided eating and drinking water during times of travel as they are not sure if their water-sanitation needs would be met either during the travel or at the destinations. This sentiment is a sad reflection of the prevailing status of WASH infrastructure in public places as well as the low prioritization that safe WASH practices are accorded by the community.

Understanding The Vulnerability – *TRIBAL COMMUNITIES*



Tribal communities typically reside in remote, hilly, difficult-to-reach areas. This imposes immense geographic hurdles in creating & maintaining basic infrastructure that is essential for ensuring accepted quality of life. Often, this is a story of "poverty amidst plenty", because the place itself would be inherently rich in natural resources but, ironically, these resources are not accessible to the inhabitants of that area. Apart from the challenge of sheer logistic inaccessibility in building new infrastructure in hilly areas, attitudinal apathy of the service-providers along with short-sighted policies which guide line-departments like the forest & environment, revenue, agriculture, etc combine to impede the progress towards tribal development.

Understanding The Vulnerability –

MIGRANTS



UNDERSTANDING THE VULNERABILITY – The Homeless, Migrants

- ◆ **"Footpaths are our home away from home."** stricken and driven by poverty they migrate to cities in search of livelihoods & eke meagre amounts. They live on footpaths to save money.
- ◆ **We have nobody as our own** - except for each other.. Abandoned and uncared for, the homeless individuals are exposed to constant risks of hunger, disease and exploitation
- ◆ **Exploited and underpaid...** much of their meagre earnings are saved and sent to their native places so that their family members can be fed

(From: FANSA- Voices of the vulnerable on WASH services)

Migration for livelihoods is a complex demographic phenomenon that affects large areas of rural India. This is driven by many intricately interlinked processes related to social, economic, cultural and educational realities. Thus, we have hordes of people, mostly from the lower socio-economic strata, moving periodically to urban centres in search of gainful employment. These urban centres, however, are ill-prepared and ill-equipped to receive and provide for this huge influx of people. This results in a huge number of people without shelter struggling to eke out a living. While the local authorities are duty-bound to provide basic water sanitation facilities to all residents in the demarcated area, lapses in planning, policies & implementation of welfare programs have resulted in the burgeoning problem of the homeless migrant populations in major cities.

Understanding The Vulnerability – *LGBTQI COMMUNITIES*



UNDERSTANDING THE VULNERABILITY – The LGBTQI Communities

- 💧 **Facing humiliation and rejection has become a normal thing...** Rejected and thrown out by their own families, the LGBTQI communities are nobody's people...
- 💧 **'We are like anybody else, but are pushed out by Both men and women..** Basic needs are no different but strong stigma attached to the community precludes inclusion into the mainstream
- 💧 **Members live in groups in squalid conditions in small and ill-serviced 'houses'** - with hardly any water-sanitation
- 💧 **'Nobody even tries to understand us... let alone empathize with us...**Already in shock, denial and turmoil internally, they suffer enormous emotional agony - worsened many fold by the utter insensitivity of the so called mainstream
- 💧 **Physically, socially, economically, sexually** - we are exploited in all ways... and society calls US abnormal!

(From: FANSA- Voices of the vulnerable on WASH services)

Sex workers and the LGBTQI community have always been the butt of ridicule and humiliation by the community at large. Their struggle for acceptance and basic dignity has been on for a long time and has met with little success. While comprehensive mainstreaming of these communities is indeed the long term goal, it is the bounden duty of any civilized community to make sure that this segment of the population is accorded equal opportunity and facility for the basic amenities. Water, sanitation and hygiene form the very first components of such amenities which have to be fulfilled and guaranteed in a sustainable manner.



Marginalisation and Vulnerabilities.

Exploitation of minorities by the majority community is an unfortunate global phenomenon which has given rise to much human suffering & loss of life right through the history of human civilization. India has always been a pluralistic society. Over the millennia the Indian society has seen waves of influx of people following different religions, cultures, customs and practices all of which have mixed and merged with the indigenous societal characteristics. The constitution of India refers to religious & linguistic minorities & accords them special privileges to enable inclusive development on par with the mainstream society. Despite stated objectives dripping with idealistic fervor, minority communities have been facing significant challenges on multiple fronts. Each minority community has its own unique set of beliefs and practices which at times create a difference of opinion with the rest. Vested interests have often taken undue advantage of such differences & have fomented conflicts leading to loss of life, property as well as immense suffering. India has seen many unfortunate episodes of communal violence where the minority and majority communities have targeted each other with destructive intent. Going beyond the differences in religious beliefs, the conflict spills over to all dimensions of development, thus creating a potential environment of mistrust, insecurity, fear & exploitation. Often the mechanism of inflicting such discriminatory intentions revolve around denying basic requirements for life - namely water, food, housing & sanitation. Many minority community members live in clusters of households with minimal amenities. A vicious cycle follows - with the deprivation & exploitation leading to more misunderstandings, greater divide between communities and thus, more chances of flare-ups of conflicts - which further increases marginalisation and vulnerabilities.

One of the most important steps in solving a problem is to understand the problem as experienced by the affected communities - & involve the affected community in devising a solution. Such efforts at the grassroot level have been envisaged by all stakeholders including the Govt, the civil society, the corporate bodies and the community at large. That said, it is widely acknowledged that the contribution of the civil society organisations has been invaluable in this regard. The exemplary spirit of voluntary service, dedication, care and concern for the marginalised & the downtrodden shown by the CSO sector has been instrumental in unmasking the challenges of the vulnerable groups, forcing public debate and bringing in constructive policy and socio-political environments for sustainable solutions.

WASH RIGHTS AND HUMAN RIGHTS IN INDIA



WASH RIGHTS AND HUMAN RIGHTS IN INDIA

The responsibility of ensuring supply of water and sanitation needs of the community vests with the Government. India being a Union of States, the issue of water resource management is complex. The constitution of India places the responsibility of management of water resources primarily on the state government (Entry 17 of State List: Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power subject to the provisions of Entry 56 of List I.) but also the central government (Entry 56 of Union List; Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.). In addition, as empowered by the relevant provisions under the Constitution, local governments are expected to plan and undertake socio-economic development of the areas under their jurisdiction, which necessarily means decision-making powers related to managing of local natural resources including water. Public Health and Sanitation are also State subjects, and are hence primarily the responsibility of State governments.

In addition to the constitutional promise of safe water and sanitation, India has been a signatory to many international declarations that imply its acceptance of the status of the rights to water and sanitation. India has committed to the SDGs and ratified the declaration for achieving the planned milestones. It has also been a signatory to many international declarations and agreements which propose to fulfil the water and sanitation rights in its letter and spirit.

In India, the concepts of right to water and sanitation draw support from constitutional, as well as legal-judicial provisions. Table 1 summarises the main components of the Constitution which have been interpreted as being implicitly communicative of the concept of right to water and sanitation.

Article	Main content	Relevance for application
Article 14	Right to equality before law & protects a person against unreasonable state action	Can be invoked where a state project interferes with the right of people to have access to clean adequate water
Article 17	Abolishment of untouchability	Can be invoked in situations of discrimination and prevention to accessing basic services including water and sanitation due to their caste, creed, ethnicity and origin
Article 21	Protection of life and personal liberty	Water and sanitation are viewed and interpreted as essential components which are required for sustenance of life
Article 48 A, 51 A(g) and the 42nd Amendment to the Constitution 1976	Protection of environment and fundamental duty of the citizens	Can be invoked in claiming the right to access to drinking water & sanitation

Table 1 Salient constitutional provisions sanctifying right to water include:

(Source - Towards Understanding the Right to Water and Sanitation Discussion Paper WaterAid India, July, 2009)

The Indian Judiciary has time & again reiterated the interpretation of constitutional and legal provisions to uphold the right to water and sanitation. Such judgements have been passed in both the Supreme Court & the High Courts of various states. In one of the most explicit reinforcements of such interpretations, the High Court of Karnataka observed that 'entitlement to clean water is one of the basic human rights. The right to life inherent in Article 21 does not fall short of the required quality of life which is only possible in the environment of quality' (V. Lakshmi pati vs. State of Karnataka, 1992). The Discussion Paper on Right Water and Sanitation published by Wateraid (Towards Understanding the Right to Water and Sanitation Discussion Paper WaterAid India, July, 2009) presents an analysis of 43 cases from across the country. Similarly, Brunner et al (Brunner, Norbert & Mishra, Vijay & Sakthivel, Ponnusamy & Starkl, Markus & Tschohl, Christof. (2015). The Human Right to Water in Law and Implementation. Laws. 4. 413-471. 10.3390/laws4030413) has listed out multiple international & domestic judgements from 11 countries, including about 12 from India. The litigations have covered a wide variety of circumstances, addressing issues like lack of water supply, supply of contaminated water leading to illness, poor sanitary conditions, environmental pollution, and charges being levied for water.

India has reiterated its commitment to universal access to safe water & sanitation to its population in many international fora, including the UN & the South Asian Conference on Sanitation (SACOSAN). This commitment has no doubt provided the impetus to develop many unique programmes on water & sanitation with substantially increased budgets over a period of time.

The government-commissioned survey, the National Annual Rural Sanitation Survey (NARSS) 2018-19, estimated that 93.1 percent of rural households now have access to toilets. The second edition of the survey, published during 2019, also recorded that 96.5 percent of people who had access to toilets use these facilities. This is a huge step towards realisation of the human rights to water and sanitation for the vast majority of the Indian population. However, despite the spectacular gains made through the Swachh Bharat Abhiyan scheme, the flagship program for accelerating sanitation coverage across the country launched in 2014, serious concerns remain. The current definitions of the desirable state of Safely Managed Sanitation Services have altered the scenario significantly. With the pragmatic view of progressive realisation, we now have the concept of the 'safety ladder' in both water and sanitation services. Application of the definitions as under this safety ladder alters the statistics of 'coverage'. It is no longer enough if the previous definition of Open-Defecation-Free' status is achieved. We have now realised that this is by itself merely a means and not an end - we have to move up towards the higher objectives of safely managed services. Many of the newer challenges in water and sanitation have in fact been secondary to the previously implemented programs which were intended as 'solutions', and therefore there is a strong need to re-cast the approach towards strategies and technologies used for ensuring water-sanitation services.

Sector experts have expressed concerns that policy and programme initiatives in India's water and sanitation sector lack a clear and holistic human rights-based approach. Of concern also is the poor - and differential - adherence to good governance practices at the different tiers of government, from grassroots to national level. That major gaps persist in the water and sanitation sector despite massive financial outlays raises many questions about the effectiveness of financial spending in the sector.

Institutional challenges in rural and urban drinking water and sanitation continue to pose major hurdles. These include addressing leakages in official spending, monitoring of progress, creating linkages between different agencies, appropriate strategy development, lack of real-time data, continued exclusion of marginalised communities etc. There is also a often-reported gap between the coverage as reported in records, availability of physically-verified infrastructure and actual, proper utilisation of safe water-sanitation services. This failure may be a combined result of supply-side failings- ineffective programmes and policies - as well as demand-side shortcomings - poor awareness and prioritisation. The WASH divide also reflects the worsening livelihoods of the poorest communities, on the one hand, and the elite capture of resources and capital, on the other.

Building facilities for safe water & sanitation alone will not work without simultaneous behavioural change. Failure to achieve sustainability needs to be reassessed from this point of view instead of relying upon a one-sided target-driven approach. heavy on infra-structure creation. In the majority of households, even if the source of water is safe, water is apt to get contaminated by unhygienic conditions & practices by people at the point of use.

Drinking water is an issue that evokes strong responses in the electoral political discourse of the country, where 'provision of drinking water' is one of the most-often-repeated electoral promises. But sanitation is largely missing in the political agenda at local level, despite the current political will & the visibility it has received through the Swachh Bharat Mission. In spite of increased financial resources, especially for drinking water, there are serious concerns around sustainability of water resources (sustainability of the water sources as well as the infrastructure developed) & investments made in the drinking water sector. There are concerns on groundwater & surface water quality & sustainability, with emerging inequities that are not only urban-vs-rural, but also intra-rural & intra-urban. The crisis has intensified become intense over the past decade, affecting both rural and urban sectors. In Aug 2021, it was reported by the Drought Early Warning System (DEWS), a real time drought-monitoring platform, that as much as 21.06% - over a fifth the country's land area - was facing drought-like conditions. This was a huge 62% jump from total area under similar water stress during the same period last year, which was at 7.86%. (Down To Earth, Aug 2021)

The increasing demands on available water from intensive agriculture and industry and the increasing levels of pollution of groundwater and surface water, have posed further constraints on availability of water for drinking purposes.

There is a lack of continuous & regular monitoring of the status at local level, in terms of equitable access and affordability of water and sanitation & a lack of long-term planning at a disaggregated level (of say a district or a block) in the rural areas. While such plans are often well delineated in the macro-level documents at national and state level, the knowledge of such details and therefore the ownership of the process is often lacking at the grassroots level. The process of sector reforms for rural drinking water & sanitation has predominantly been a top-down process from the Centre to the States, with the State district level water and sanitation missions remaining ineffective and ill-staffed. The role of NGOs and civil society is inadequately defined in decentralised programmes & projects. There is only administrative decentralisation without sufficient political decentralisation, resulting in a limited role for PRIs in project implementation.

The situation appears worse in urban water and sanitation, where credible estimates of coverage, access and financing requirements are absent. Decentralisation is a major challenge for urban areas of India, where the minimum unit of decentralised planning, a municipality ward, itself consists of huge populations and a multiplicity of urban bodies. Most of the recent reports and commentaries have highlighted that the problems of the urban water and sanitation sector in India are complex and shall need concerted efforts to sustain policy momentum.

Like many other countries, India has the unenviable situation of needing to simultaneously improve access to water and sanitation especially for marginalised communities, and responding to increasingly urgent environmental challenges. Progress in development indices including improved public health outcomes need to be ensured even as we face the challenges of worsening water shortage and resource constraints on one hand, and limited institutional and institutional and financial limitations, on the other.

It has been discussed and debated whether the explicit articulation of a right to water and sanitation within the body of the Indian Constitution would be one of the ways to address the inequities in progress in the sector. Likewise, embedding the rights to water and sanitation in human rights terms is also considered an effective approach to address water and sanitation issues in a way that respects equity, human rights and environmental sustainability. This makes practical sense in the Indian context because equity, human rights and environmental sustainability are at stake due to the stark and deepening WASH divide that exists at present, in spite of the major gains achieved in recent years.

It is imperative to take a balanced view of the positives (the Indian government's commitment to the cause of WASH rights, well-designed programs, the progress achieved to date, and the momentum gained) and the negatives (concerns about gaps in attitudes and understanding of implementing agencies, dilution of values at level of implementation, poor governance, as well as skewed resource allocations) as we move ahead. These issues have to be considered in the light of:

- 💧 The efficiency and effectiveness in program implementation - fulfilling the basic prerequisites like availability, accessibility, acceptability, affordability, quality/safety of water and sanitation
- 💧 Recognising behaviour as a key determinant of ensuring quality and safety of water and sanitation services as well as their sustainability
- 💧 Ensuring proper operations & maintenance of water & sanitation services and infrastructure
- 💧 The fundamental principles of human rights like the values of Non-Discrimination, Inclusivity, Transparency etc.
- 💧 Respecting the inherent worth and dignity of the recipients of water and sanitation services
- 💧 The right of access to information and participation in decision-making processes related to water and sanitation
- 💧 The processes and systems for remediation and redressal of violations of the rights to water and sanitation
- 💧 Adherence to good governance principles like accountability, equality and non-discrimination
- 💧 Inclusive and equitable progressive realisation of the rights to water and sanitation.

The Odisha perspective

Odisha is the eleventh largest state in India, with a population of approximately 42 million people. The majority of the population live in rural areas, with only 17 percent living in urban regions. It has the third largest tribal population in the country. As per Census 2011, 40 percent of the population in Odisha are Scheduled Tribes and Scheduled Castes. The state is home to 13 particularly vulnerable tribal groups. In 2016-17 the growth rate as per the Odisha Economic Survey was pegged at 10.4 percent. Despite the positive economic growth, 32.6 percent of the population still live below the poverty line.

The state is highly disaster-prone, with frequent cyclones, floods and drought. As many as 14 out of 30 districts are vulnerable to floods and cyclones in the coastal region and 11 districts in the Western part of the state are prone to prolonged drought. The West, North and South of Odisha is largely tribal, hilly and forested, while the East has fertile coastal plains with six major rivers. Odisha has the highest new-born mortality rate in the country at 32 per 1000 live births (Sample Registration System, 2016). Food insecurity remains a pressing issue, especially among the most disadvantaged tribal groups, with tribal children bearing a higher burden of stunting and severe wasting.

As the high prevalence of disease is a negative indicator for development, the high rates of infant mortality and stunting and wasting in children in the state is of great concern. Due to low performance in health indicators, Odisha is already a member of BIMARUO States and now it joined in the Empowered Action Group States where it is lagging behind in the demographic transition and has the highest infant mortality rates (international journal of science and research, IJSR volume 8, issue -2, February 2019).

As water and sanitation are State subjects, the State government has not been adequately investing in the sector and is yet to spell out a clear, defined, implementable and publicly monitored water and sanitation policy while the people continue to languish in extreme poverty, landlessness, illiteracy and social discrimination. A recent trend shows the government has been encouraging public- private rather than public-public partnership for addressing water and sanitation issues.

Odisha has been implementing flagship national programs like the SDGs, Jal Jeevan Mission (universal piped drinking water accessibility by 2024), Swachh Bharat Mission (universal sanitation coverage) etc. Despite appreciable resources and efforts, the overall progress is less than desired. There are many categories like women, children, transgendered people (TG), people living with disabilities (PWDs), sanitation workers, tribal communities, the youth and senior citizens who are left behind.

Odisha has established WATCO (Water Corporation of Odisha), a state-owned, not-for-profit company to provide drinking water and sewerage services to urban citizens and a new innovative department called 5T (Technology, Teamwork, Time, Transparency and Transformation) for ensuring public accountability. It is expected that such measures would give fresh momentum to the state's efforts to achieve the desired objectives of ensuring safe water and sanitation services for all.

Empowerment of marginalised and stigmatised communities for achieving the rights to water and sanitation

India has been called 'a country of villages', but ironically, the inhabitants of the villages have traditionally been considered 'second-rate' citizens and have been accorded a lower social standing than their urban counterparts. Though the proportions as well as the actual numbers of marginalised communities have been higher in rural areas, the flow of resources and focus on proper implementation of development schemes have been less and slower compared to urban areas. Being located far away from the 'centre of power', rural communities have suffered not only due to discriminatory allocation practices, but have also had little access to rectification and redressal. Procedural, statutory and administrative requirements and attitudinal barriers have prevented many rural communities from accessing services being offered by the government and other agencies. This has deprived many rural communities of their rightful share of development processes and resulted in a vicious cycle of deprivation, with WASH deprivation leading to stagnation of growth and development in other dimensions of life.

Empowering people is a basic prerequisite for comprehensive human development. Marginalised groups need to be made aware of their rights and entitlements, equipped with the skills to make informed choices and to negotiate for access to resources for their development. Most of the time vulnerable groups are not aware about the constitutional provisions due to the coexisting handicaps like vulnerability, poverty, lack of education and social exclusion, which operate in a way that accentuate the negative impacts of each other.

In any community, youth, students and women are the main flickers of hope. Hence, triggering change by motivating such 'change-makers' is the best accelerator that one can hope for to ensure the progress of the nation.

**INSTITUTIONS TO ADDRESS
THE HUMAN RIGHTS TO
WATER AND SANITATION**



INSTITUTIONS TO ADDRESS THE HUMAN RIGHTS TO WATER AND SANITATION, WITH SPECIFIC REFERENCE TO ODISHA STATE

Many institutional mechanisms are already in place for ensuring fair, just and inclusive development. These have been set up by the governments with the specific objective of reaching out to marginalised communities, and providing them an opportunity to be heard and get redressal for their grievances. Experience generated over many decades of developmental work has been applied to advocate for such institutions to be set up, and has been the culmination of advocacy efforts of various agencies, including CSOs.

These structures are applicable to all; however, it has been observed that the knowledge, attitudes and practices of stakeholders - including implementing agencies, affected communities and the public in general - have been deficient. There is a huge gap in awareness about the available provisions under these special institutions. Hence it is no surprise that the special provisions created under such institutions are hardly utilised by the intended beneficiaries, and implemented in the right spirit.

This is an attempt to elaborate on some of the important institutions and mechanisms which can come to the aid of marginalised communities in their quest for inclusive WASH progress.

The following institutions, commissions and agencies and their respective powers will be discussed in the subsequent sections:

- ◆ National/State Human Right Commission
- ◆ Panchayati Raj institutions (Gram Panchayat/Panchayat Samiti, Taluk Panchayat, Zilla Panchayat) (PRIs)
- ◆ National/State Scheduled Caste Commission
- ◆ National/State Scheduled Tribe Commission
- ◆ National/State Commission for Women
- ◆ National/State Commission for Protection of Child Rights
- ◆ National/State Commissioner of Persons with Disabilities
- ◆ National/State National Commission for Safai Karamcharis
- ◆ Department of Social Security and National/State Commission for Persons with Disabilities
- ◆ National Council for Transgenders

While this is by no means an exhaustive list of such institutions, it is an attempt to compile a concise and practically useful list in one place so that this can be used as a guide for application in the field.

A brief historic overview of each institution is also given to give a bird's eye view about the context within which they operate. The main objectives as well as the systems and procedures for approaching these institutions for support and accessing their services, are given for each section. Further, the contact details for all these bodies in the state of Odisha have also been given, as an example.

Tools like the Right to Information Act offer powerful additional support in attempts to approach and utilise these institutions.

The Human Rights Commission

Evolution of Human Rights Act in India

The Protection of Human Rights Act, 1993 was enforced on 28th January 1993 in the Lok Sabha on 14.05.93 and was referred to the Parliamentary Standing Committee on Home Affairs. In view of the urgency of the matter, the Protection of Human Rights Ordinance, 1993 was introduced on 28.09.93 by the President of India. Later, on 8.01.94, the Protection of Human Rights Act was enacted which extends to the whole of India.

The purpose of securing statutory status for human rights through the Act is to establish institutional mechanisms for continuous vigil on the degree of application of - and deviations from - the high values of dignity, liberty, equity and inclusion in processes of development for community members, and to prevent abuse of power by organs of state and vested interest groups. At the same time, it provides for effective remedial measures for obtaining redressal in the event of those values and rights being violated. The Act provides for the establishment of National Human Rights Commission, State Human Right Commissions and Human Rights Courts, which collectively seek to prevent and punish any gross violation of human rights.

Procedure for registering complaints with the Human Rights Commissions

A complaint may be in English, Hindi or any language from the eighth schedule of the Constitution. Complaints may be made by any means by letter, phone orally or by text or fax and also on the mobile number of the Commission.

Address:

National Human Rights Commission,

Manav Adhikar Bhawan,
Block-C, GPO Complex, INA ,
New Delhi - 110023

Odisha State Human Rights Commission

Tosali Bhawan, 2nd floor, Satyanagar,
Bhubaneswar, 751007
Email.shrc@nic.in,
Tel- 0674-2570060 FAX- 0674-2572010,
Web site :www.ohrc.nic.in

Panchayat Raj Institutions (PRIs)

The Panchayat system has existed in India and in Odisha for a long time in different traditional formats. These were unique to specific geographies and communities, and different from each other from one part of the country to the other. However, subsequent to the 73rd Amendment to the Constitution which formalised and sanctified this tier of governance at the grassroots, the system has acquired vibrancy and dynamism. The 74th Amendment similarly adopted the same principles for the urban settings by introducing and sanctifying the Municipalities. These amendments were passed April 24, 1993 and June 1, 1993, and have been added to the Constitution as Part IX and IX A, respectively. The Amendments are applicable to all states and union territories, except to specific areas mentioned in Article 243M of the Amendment, including the states of Nagaland, Meghalaya, Mizoram, and the hilly state of Manipur. There have been subsequent efforts like the enactment of "The Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996" (PESA) to expand the applicability of the principles enshrined in the 73rd Amendment and create formal structures for local self-governance in areas initially not included in the purview. Such efforts have in line with the preexisting systems that were being followed in the local communities, and have aimed at aligning them to the current constitutional framework.

The Panchayat Raj system is designed to bring democracy to the door steps of rural communities, to evoke people's participation in the decision-making processes and to bring in participatory implementation of developmental programmes and schemes. It is a mechanism to bridge the gap between the 'centre of power' and the 'centre of action'. People of a locality know and understand their problems better than any outside agency - it is the wearer of the shoe that knows where the shoe pinches! Local self-government means that the people of a locality should be given sufficient autonomy in running their own administration. It also means that local problems should be solved in a manner suited to their conditions.

Implementation of all development projects are undertaken with specific roles and responsibilities of all the three tiers of government. Hence, these tiers of governance are accountable for ensuring equity and inclusion, and are responsible for redressal of any deviation and deprivation.

The 73rd Amendment has incorporated the principles of inclusion and equity by providing for adequate representation for marginalised groups like the Scheduled Castes, Scheduled Tribes and women. Apart from earmarking of representation based on population, it also ensures opportunities at the leadership level by reserving one third of the offices of Chairperson for women (Article 243D).

Level 1 - Gram Panchayat

The Odisha state's Gram Panchayat Act recognises the gram panchayat (GP) as the key local government institution responsible for the fulfilment of the community's aspirations with respect to development of the village. The executive powers of the GP are vested in the 'Sarpanch' and Section 19 of the Act deals with the power, duties and functions of Sarpanchs.

In the spirit of the principle of decentralisation, provision of drinking water and sanitation is included in the functions entrusted to Panchayats. Ensuring availability of safe and secure water and sanitation facilities for all, throughout the year, is a primary the responsibility of the gram panchayat. It is necessary that the elected representatives and other stakeholders of the gram panchayat, are made aware of their duties and are trained adequately in this regard.

The Panchayat Samati Chairman is the head of the elected body of the Panchayat. With the help of other elected members and the staff of gram panchayat, including the Gram Panchayat Extension Officer, the Chairman takes decisions regarding all development programmes, including WASH activities. The process for such decision-making has to be participatory and well documented. The blueprint, the beneficiaries, timeframes, contractors, budgets, and periodic progress are all expected to be shared with the community in the platform of Gram Sabha. Every member of the community is entitled to obtain information related to the development works undertaken in the Panchayat.

The GP hence provides for equitable and inclusive WASH by encouraging direct participation & providing an opportunity for the community to contribute to the process of planning and design of water and sanitation activities. The primary level of grievance redressal is also the GP itself.

Level 2 - Taluk Panchayat

At the Taluk or the block level, administration is led by the Taluk Panchayat Samiti, which is an elected body. The Chairperson of the Samiti is vested with the responsibility of ensuring proper implementation of all developmental activities in the Taluk. The Taluk Panchayat Samiti is assisted by a set of officers to ensure its smooth function. Each state has a unique organogram of bureaucracy of its own which however would be very similar in its structure, with some variations in official positions and their nomenclatures. In one of such models, the Block Development Officer (BDO) is the official in charge of the block, who is expected to monitor the implementation of all programs related to planning and development of the blocks. The BDO is assisted by a team of officers, technical & other staff who are responsible for the proper & successful execution of various development works entrusted to the Department. BDOs are also responsible for securing people's participation & maintaining public enthusiasm in the different programmes taken by the Blocks.

The plans and budgets from the GPs are compiled and consolidated at the Block level before sanction and/or escalation to the District. Hence there will be an opportunity for modifications and grievance redressal at this level, and the community members can approach the Taluk Panchayat if the issues are not solved at the GP level.

Level 3 - Zilla Panchayat

The Zilla Panchayat (ZP) is the important centre of decision-making in all development works at the District level which is considered the critical administrative unit for implementation of development projects and for achieving scale. It is vested with the responsibility of oversight of all national and state level schemes, and with some financial powers and operational freedom to undertake new schemes and programs, including contextually relevant initiatives for water supply, sanitation and public health.

The ZP is expected to prepare plans for the economic development of the district, in an equitable manner. The Zilla Panchayat Chairperson is the decision-making head of ZP and is assisted by the CEO who heads the bureaucratic support wing of the ZP. Thus, the ZP provides the third level of intervention, for ensuring proper planning and implementation of WASH programs. It is also the third tier for redressal of issues that do not get solved at GP and TP levels.

Panchayats at village levels are expected to perform certain obligatory functions to provide basic services to all residents of the area. Gram Panchayats in Odisha, as elsewhere in the country, have been empowered to levy taxes and manage community assets created out of different poverty eradication and area development schemes. They are constitutional bodies that represent a model of community participation and social empowerment. Basic services among others include: Primary education, primary health, safe drinking water, sanitation and street lighting, environment protection, and common property resources (CPR) management

Here it is to be remembered that solutions are possible only when all parties involved have a positive, constructive attitude with a willingness to participate actively in finding and implementing appropriate solutions. CSOs play an important role in facilitating the process of such grievance redressals by educating communities about these mechanisms, facilitating the submission of representations and liaising with the government agencies for timely action.

It should also be remembered that any major decision taken at the GP level, should be placed before the Gram Sabha and be passed by the collective, with appropriate documentation in the form of formal resolutions. This would make the decision binding on the local agencies to follow, and would also set a precedent for similar decisions in other areas as well.

Rights and Redressal mechanisms for members of Schedules Caste and the Scheduled Tribe Communities

Constitutional Social Safeguards for Scheduled Castes and Scheduled Tribes

Article 17 of the Constitution states in unambiguous terms that "Untouchability" is abolished and its practice in any form is forbidden. Practice of any form of "Untouchability" shall be an offence punishable in accordance with law. To give effect to this Article, Parliament made several enactments, including:

- ◆ **Untouchability (Offences) Act, 1955:** In order to make the provisions of this Act more stringent, the Act was amended in 1976 and renamed as the Protection of Civil Rights (PCR) Act, 1955 (Annexure-3). The rules framed under this Act are called the Protection of Civil Rights Rules, 1977 under the provisions of the Act (Annexure-4).
- ◆ **Parliament also passed the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Annexure-5),** which became effective from 30.01.1990. The rules framed under this Act were notified on 31.03.1995. (Annexure-6). The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (Annexure-7) was notified on 01.01.2015.

Functions of the state office of SC and the ST commission

The State Offices work as the 'eyes and ears' of the Commissions. They keep a watch on the implementation of formulated policies and issue guidelines relating to the welfare of Scheduled Castes and Scheduled Tribes in the respective States/UTs under their jurisdiction and keep the Commission headquarters informed about the developments periodically. Policy decisions taken by any State Government/UT Administration affecting the interest of the Scheduled Castes and Tribes are brought to the notice of the concerned authorities for necessary modifications.

The State offices of the Commission are required to interact with the State administrations and guide them to ensure that the interests of the Scheduled Castes and Tribes are protected and promoted while formulating programs and policies. The State offices also monitor the utilisation of funds earmarked for welfare of Scheduled Castes and Tribes, including keeping a watch on the diversion of funds from dedicated budgetary allocations like the Special Component Plan. Further, they are also expected to undertake evaluation and other studies to assess the working of various developmental programmes implemented for the welfare of the Scheduled Castes and Tribes and their impact on ameliorating the socio-economic conditions of the target groups. The findings of these evaluations are brought to the notice of the concerned State government for taking remedial measures if and as needed.

The State Offices send quarterly reports to the Commission headquarters detailing their activities and highlighting major issues relating to the welfare of Scheduled Castes and Tribes in each States/UT under its jurisdiction. These reports about the developments in each state enable the Commission to have a birds-eye view of the state-specific as well as national situation, which enables it to take appropriate action.

Different Wings at SC Commission offices:

- 💧 Administration & Coordination Wing
- 💧 Service Safeguards Wing
- 💧 Atrocities and Protection of Civil Rights Wing
- 💧 Economic & Social Development Wing

Duties of the Commissions

The main duties of the Commissions as laid down in the Article 338(5) of the Constitution are:

- 💧 to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes and Tribes under the Constitution or other laws and Government orders, and to evaluate the working of such safeguards;
- 💧 to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes and Tribes;
- 💧 to participate and advise in the planning process of socio-economic development of the Scheduled Castes and Tribes, and to evaluate the progress of their development
- 💧 to present periodic reports regarding the working of those safeguards to the President, annually and as required.
- 💧 to recommend measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes and Tribes;
- 💧 to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by rule, specify.

The ST Commission would also discharge the following other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes, namely: -

- 💧 Measures that need to be taken over conferring ownership rights in respect of minor forest produce to the Scheduled Tribes living in forest areas.
- 💧 Measures to be taken to safeguard rights to the Tribal Communities over mineral resources, water resources etc. as per law.
- 💧 Measures to be taken for the development of tribals & to work for move viable livelihood strategies.
- 💧 Measures to be taken to improve the efficacy of relief and rehabilitation measures for tribal groups displaced by development projects.
- 💧 Measures to be taken to prevent alienation of tribal people from land and to effectively rehabilitate such people in whose case alienation has already taken place.
- 💧 Measures to be taken to elicit maximum cooperation and involvement of Tribal Communities for protecting forests and undertaking social afforestation.
- 💧 Measures to be taken to ensure full implementation of the Provisions of Panchayats (Extension to the Scheduled Areas) Act, 1996 (40 of 1996).
- 💧 Measures to be taken to reduce & ultimately eliminate the practice of shifting cultivation by Tribals that lead to their continuous disempowerment and degradation of land & the environment

How to contact the SC and ST Commissions

Any person with a grievance in matters that are related to the welfare of SC or ST Communities can freely contact the Commission and share these issues. As WASH forms an integral and essential prerequisite for SC and ST welfare, any complaint related to the non-fulfilment of WASH rights can be brought to the notice of the Commission.

The complaint should be addressed to the **Chairman/Vice-Chairman / Secretary, National Commission for SC or ST** as the case may be, New Delhi or the heads of its State Offices. It is necessary for the complainant to disclose his or her full identity and give his or her full address and sign the representation.

Individuals can also send their complaints to the chairman on the websites and through e-mail.

Contact address of the SC and ST Commissions

National Commission for Scheduled Caste (HQ)

5th Floor, Lok Nayak Bhawan,
Khan Market,
New Delhi 110003
(P) 24620435, 20606802, E.mail- chairman- ncsc@nic.in

National Commission for Scheduled Tribes (HQ)

6th Floor, B-Wing, Lok Nayak Bhawan,
Khan Market, New Delhi-110003
PBAX No. 011-24646954, FAX No. 011-24624628, 24657474, 24624191
Toll Free No. 1800-11-7777 As on 25/01/2016

Contact Address for Odisha:

The Director

National commission for Scheduled Caste,
Maykha Bhawan, (Ground floor), Salt Lake City
Kolkata - 700091, Tel- 033- 23370977, 23213259

The Director

National Commission for STs
N-1, NH-1, IRC Village,
Nayapalli, near Iskon Temple, Bhubaneswar,
Odisha 751015, Phone- 09007657121.

Rights and Redressal mechanisms for Women

In terms of the Indian legislative framework, women neither belong to a minority group nor are they considered a backward class. India, historically, has by and large been a patriarchal society. Women have often been subdued in society, with variable degrees of freedom & suppression depending on their geographic regions, socio-economic status, cultural practices and the period of history. Accumulated wrongs inflicted on women have led to a situation of neglect & exploitation. Long-standing traditions have led to 'stereotyping' of the role of women in the society, an unfortunate status that has extended to the WASH sector as well. Despite being forced to take the onus of almost all responsibilities related to water and sanitation at the household level, the specific needs of women in relation to WASH are rarely taken into consideration. It has thus become necessary to undertake certain strategic steps to enhance & improve the status of women especially in relation to WASH needs & services. While the Indian Constitution is generally gender-neutral, Article 15(3), Article 21 & Article 14 specifically speak of provisions to protect & safeguard women.

There are many legal provisions for the protection of women's rights in India, which include

- 💧 The Dowry Prohibition Act,
- 💧 The Commission of Sati (Prevention) Act,
- 💧 Immoral Trafficking (Prevention) Act.

Each of these pieces of legislation has been in place for a long time and have been amended from time to time. Of importance also are the Domestic Violence Prevention Act and the Sexual Harassment at Workplace Prevention, Prohibition and Redressal Act - which provide for assertion of women's rights with adequate statutory protection. The Supreme Court and other courts have also taken vital measures for protecting the rights of women from time to time in many landmark judgements which have upheld the rights of women in the eyes of law.

However, it is obvious that the status of women as an integral part of the society will not change unless & until the attitudes of the people change. This is an ongoing process of evolution & refinement.

National and State Commission for Women

In order to create a specific oversight mechanism for the recognition, prevention, and redressal of violations of women's rights, the Indian government created the National Commission for Women through the National Commission for Women Act, 1990. This Commission provides an accessible platform for women to seek redressal for any injustice inflicted upon them, and get justice promised under the provisions of the Constitution and legal framework.

Objective of Commission for Women

- To provide suggestions the government regarding policies regarding women
- To act as a platform to redress women's grievances
- To make recommendations relating to legislation measures regarding women
- To review legal and constitutional safeguards for women

Procedure for registering complaints with the Commission for Women

Complaints may be made through telephone, fax or by email.

Address:

National Commission For Women,

Plot-21, Jasola Institutional Area,

New Delhi - 110025

24x7 Helpline: 7827-170-170 011 - 26942369,

26944740, 26944754,

Odisha State Commission for Women

3rd Floor, Toshali Plaza, Satya Nagar,

Bhubaneswar, Odisha 751007,

Phone: 0674 257 3850, E.mail- oscw.od@nic.in

Rights and Redressal mechanisms for Children

Children constitute a very delicate and vulnerable group of any society. They are exposed to high levels of risks in terms of their growth, development, health, education, skills, and opportunities, which affect not only their individual achievements and success, but also the progress achieved by the collective - the village, state, country. Today's child is tomorrow's citizen - and the efforts that are put in by society to nurture and empower children determine the extent to which every child evolves as an aware, responsible, productive and caring individual willing to contribute to societal development.

Many provisions in the Indian Constitution provide for the protection of children's rights. Children are accorded all rights that are applicable to any citizen of the country - and hence are eligible to claim support under provisions of Article 14 (the right to equality), Article 21 (the rights to life; personal liberty and process of law), Article 23 (the prohibition of bonded labour). In addition, the rights of the children are specifically mentioned and enshrined in some contexts, which include the Article 21-A which guarantees free and compulsory education, and the Article 24 (a) which secures the right to be protected from any hazardous employment till 14.

Child protection laws in India are framed in line with constitutional provisions for safeguarding child rights. More than 250 statutes in India, passed by the Union and State governments, deal with children and their welfare. In addition to these child protection laws, there are several general criminal laws which protect the rights of children. These statutes include the Indian Penal Code, 1860, the Indian Evidence Act, 1872 and the Criminal Procedure Code, 1973.

Some of the laws passed by the Union Government for child protection include:

- 💧 **Children Pledging of Labour Act, 1933** - This Act prohibits the pledging of the labour of children.
- 💧 **The Immoral Traffic (Prevention) Act, 1987** - This Act seeks to stop trafficking in young persons, both boys and girls.
- 💧 **Child Labour (Prohibition & Regulation) Act 1986** - This Act prohibits children's engagement in certain kinds of employment & regulates the conditions of work of children in certain other employments.
- 💧 **Commissions for Protection of Child Rights (CPCR) Act, 2005.**
- 💧 **Prohibition of Child Marriage Act, 2006** and its further Amendments.
- 💧 **Right of Children to Free and Compulsory Education Act, 2009** - The right to education, which was initially under the Directive Principles, has now been brought under the fundamental rights, making it a justiciable right under Article 21-A. The Right to Education Act, 2009, also known as RTE Act, describes modalities of importing free and compulsory education for children aged between 6-14 years in India.

- 💧 **Protection of Children from Sexual Offences Act, 2012** - The Protection of Children from Sexual Offences (POCSO) Act was enacted to address sexual exploitation and sexual abuse of minors. The Act holds that a child is any person below the age of 18 years.
- 💧 **Juvenile Justice (Care and Protection of Children) Act, 2015** - aims to ensure the proper care, development, and social reintegration of children in difficult circumstances by adopting a child-friendly approach. The Act classifies the term "child" into two categories: 'child in conflict with law', and 'child in need of care and protection'.

Status of child protection in India

Despite significant progress in the basic prerequisites for development - including basic amenities like WASH, education, health, communication etc - India continues to lag behind in child development. The Global Childhood Report 2021 brought out by the Save the Children, incorporates the End of Childhood Index which evaluates countries on the following eight indicators to determine the wellbeing of children and teenagers (0-19 years)

- 💧 Mortality among children under five years of age
- 💧 Malnutrition that stunts growth
- 💧 Lack of education
- 💧 Child labour
- 💧 Early marriage
- 💧 Adolescent Births
- 💧 Displacement by conflict
- 💧 Child homicide

India has been ranked 118 out of 186 countries in this report.

Despite many constitutional and legal provisions for the protection of children and their rights, we witness various forms of child rights violations, including the denial and inability to access the right to food, right to education, right to health and rights against exploitation. Due to a combination of lack of awareness, commitment and accountability across the spectrum of multiple stakeholders, we see that poor implementation of policies, programs and legal framework has resulted in vast sections of children being deprived of their rights.

While the constitutional and judicial frameworks have ensured legal and political rights, much more needs to be done to ensure social and economic rights to vulnerable communities to ensure that the rights of all children are secured. Legal reform alone cannot bring about change in the rights of children.

National Commission for Protection of Child Rights (NCPCR)

The National Commission for Protection of Child Rights (NCPCR) is a statutory body established in 2007 under the Commissions for Protection of Child Rights (CPCR) Act, 2005. The NCPCR works towards achieving a child rights-centric approach in laws, programmes, policies and administrative mechanisms in India. It functions under the Ministry of Women and Child Development of the central government. It strives to ensure that laws and policies in the country are in consonance with the rights of children as emphasised by the Indian Constitution as well as with the UN Convention on the Rights of the Child. A child is defined as any person younger than 18 years old. The Commission acknowledges the universality and inviolability of child rights and sees every right of the child as equally important.

Functions of the Commission:

The functions and mandates of the NCPCR as laid down by the CPCR Act are

- 💧 Assess and review the safeguards that are provided for child rights protection in India under existing laws and also suggest measures for implementing them effectively.
- 💧 Present reports to the central government on the workings of the laws in this domain as and when necessary.
- 💧 Inquire into cases of child rights violations and initiate proceedings.
- 💧 Study the factors that prevent the enjoyment of rights of children impacted by terrorism, riots, natural calamities, communal violence, trafficking, HIV/AIDS, torture and exploitation, maltreatment, prostitution and pornography, and suggest remedial measures for them.
- 💧 Enquire into the needs of children requiring special care and protection such as disadvantaged and marginalised children, children in conflict with the law, children of prisoners and children without families, and also recommend remedial measures thereof.
- 💧 Review current policies with respect to children's rights and protection by studying treaties and international instruments and suggest changes as needed.
- 💧 Conduct research in the field of child rights.
- 💧 Advocate child rights & promote/disseminate the idea through mass campaigns, seminars, etc.
- 💧 Undertake investigation into specific complaints received from children or anyone else on their behalf.
- 💧 Encourage the incorporation of child rights in school curriculums and train teachers in that respect.

The Commission is also mandated with responsibilities under two other acts, namely:

- 💧 Protection of Children from Sexual Offences (POCSO) Act, 2012.
- 💧 Right to Education Act, 2009.

State Commission for Protection of Child rights, Odisha

In pursuance of Section 17 of the Commission for Protection of Child Rights Act, 2005, Odisha State Commission for Protection of Child Right (OSCPCR) has been constituted with effect from 30.09.2010.

Role of OSCPCR:

- 💧 Safeguard the rights, privileges & receive complaints about rights violations of child rights
- 💧 Conduct inquiries and investigation relating to violations of child rights
- 💧 Review of safeguards for the protection of child rights
- 💧 Conduct research, commission studies and collect and analyse data
- 💧 Examine factors that inhibiting the enjoyment of child rights
- 💧 Looking into matters relating to children in need of special care and protection
- 💧 Inspection of juvenile custodial homes/child care institutions
- 💧 Promote child rights literacy and awareness
- 💧 Promote participation of child in decision-making processes

Powers of OSCPCR:

The OSCPCR has all the powers of a Civil Court trying a suit under the Code of Civil Procedure,1908 including the power to summon and enforce the attendance and examination under oath of any person, receiving evidence on affidavits, requisitioning any public record or copy thereof from any court or office, and issuing commissions for the examination of witnesses or documents.

Contact details:

National Commission for Protection of Child Rights (NCPDR)

5th Floor, Chanderlok Building,36 Janpath, New Delhi-110001

Online portal for registering complaints-eBaalnidan

Phone-Fax: 011-23724026

Secretary of the State Commission for Protection of Child Right (OSCPCR):

Odisha State Commission for Protection of Child Rights (OSCPCR)

Quarter No-A-1, Unit-V,

Bhubaneswar

Pin - 751001

Land Line Tel - (0674) 2394041

FAX No - (0674) 2394043

Email - OSCPCR2012@gmail.com / OSCPCRod@nic.in

Rights and Redressal mechanisms for Persons With Disabilities

Persons with disabilities (PWDs), as defined by the UN Convention on the Rights of Persons With Disabilities, include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

The International Classification of Functioning, Disability and Health (ICF) refers to disability as "an umbrella term covering impairments, activity limitations, and participation restrictions. An impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations".

According to UN estimates, 4 to 6% of the world's population is living with some form of disability, with the poorest of the poor being the most adversely affected. Disability appears in many forms and poses obstacles to activities of daily life including access and usage of safe water and sanitation. Fetching water, consuming water and food, personal hygiene, washing clothes and dishes, and accessing and using the toilet – which are basic water and sanitation related tasks often taken for granted – can all pose challenges to those living with disabilities.

Access to safe and clean water and sanitation facilities is a basic right of all people, including people with disabilities, the denial of which can have serious implications on their well-being. Lack of access to safe water and sanitation contribute to recurrent infections affecting the health of the PWDs, to a high rate of dropouts among students with special needs affecting their education, and similarly adversely affect all other dimensions of life.

The Indian government amended the previously existing Persons with Disabilities Act (PWD Act) 1995 and brought into force the Rights of Persons with Disabilities Act, 2016, as a long-delayed and welcome legislative development. The new Act came into force on 19 April 2017. The Act defines 21 different types of disabilities and has included, for the first time, some of the chronic diseases like neurological disorders, and hemoglobinopathies under the ambit of disability. Definitions of benchmark disabilities have also been included. The Act provides for an enhancement of the earmarked resources for PWDs in all tiers of administration to 5%, and makes it mandatory for all departments to create employment opportunities for PWDs.

The UN Convention on Rights of Persons With Disabilities (UNCRPD) also mentions the right to safe water and basic sanitation as one of the components of rights of PWDs.

National and State Commission for People with Disabilities

The amended Act has strengthened the National and State Commissions for Persons With Disabilities and has bestowed upon the Commissioners the powers to enforce all the provisions under the Act.

In a significant addition to the previous provisions, the new RPWD Act has made discrimination against PWDs and non-compliance with the provisions under the Act a punishable offence. Thus, the Commissioners have the necessary powers vested in them to take up any issue, including WASH deprivation, and ensure suitable redressal.

How to register complaints with the Commissions

Under the new Act, District Collectors are deputed as Deputy Commissioners and can be approached directly by an aggrieved party. For further action beyond this level, one may write to the State Commissioner for Persons with Disabilities at the Office of the State Commissioner for Persons with Disabilities

Procedure for registering complaints

One can approach to State Commissioner in one of the following ways, along with a copy of the Disability Certificate and supporting documents:

- 💧 In person
- 💧 Through a representative
- 💧 Through registered post
- 💧 By e-mail
- 💧 By online case management system

Contact Address:

National Commission for People with Disabilities

E-150, Ground Floor East of Kailash, New Delhi 110065

011-26221276 / 26221277 / 49122868/ 011-26221275

Website-secretariat@ncpedp.org

Email-secretariat.ncpedp@gmail.com

State Commission for People with Disabilities

SIDR Building, Capital Hospital Campus,

Unit 6, Bhubaneswar, Odisha 751001

Phone- 0674-2390006,

URL - <http://scpdodisha.nic.in>

Rights and Redressal mechanisms for Manual Scavengers and Sanitation Workers

Manual scavenging is a term used to describe the job of removing human excrement from dry toilets and sewers using bare hands to operate basic tools such as thin boards, buckets and baskets, and disposed of by carrying the excreta on the head and trolley. This has been a caste-based and hereditary occupation for Dalits that is predominantly linked with forced labour. The note on Manual Scavenging brought out by International Dalit Solidarity Network estimated that around 1.3 million Dalits in India (of which more than 80% are Dalit women) make their living through manual scavenging (<https://idsn.org/key-issues/manual-scavenging/>).

Though there have been significant changes in such demeaning practices, the practice of manual scavenging is still continuing all over India from Kashmir to Kanyakumari, from backward states to developed states. It is a tragedy that even after bringing into force a law to abolish it in 1993 - the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 - it has not yet been completely eliminated.

The National Commission for Safai Karamcharis (NCSK) was constituted on 12th August, 1994 as a statutory body by an Act of Parliament viz. 'National Commission for Safai Karamcharis Act, 1993', for a period of three years i.e. up to 31st March, 1997. Since 2004, the commission has been functioning as a non-statutory body of the Ministry of Social Justice and Empowerment.

The mandate of the National Commission for Safai Karamcharis as laid down by the periodic resolutions and the legal provisions, includes:

- 💧 Recommending to the Central Government specific programmes for elimination of inequalities in status, facilities and opportunities for Safai Karamcharis.
- 💧 Studying and evaluating the implementation of the programmes and schemes relating to the social and economic rehabilitation of Safai Karamcharis and scavengers.
- 💧 Investigating specific grievances and taking suo-motu notice of matters relating to welfare and socio-economic upliftment of Safai Karamcharis,
- 💧 Monitoring the safety of working conditions of Safai Karamcharis

The commission is expected to report to the central and state governments any major findings identified in the course of its functioning, and initiate suitable action thro the appropriate wings fo the government.

Further with the promulgation of the "The Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013", it is further vested with the responsibility of overseeing the proper implementation thro enquiry into any complaints regarding contravention of the provisions of the Act, and advise the government for effective implementation. It is also given the responsibility to take suo motto notice of matters related to non-implementation of the Act.

The Commission also monitors the provision of support for all families of persons who have died in sewage related work, thro award of compensation for each of such death, based on the Supreme Court Judgement dated 27.03.2014 (Safai Karamchari Andolan & ors Vs. Union of India, Writ Petition(Civil) No.583, 2003).

The National Commission for Safai Karamcharis comprises one Chairman (in the rank and status of the Union Minister of State) and four members, including a lady member (in the rank and status of the Secretary to the Government of India) and the Secretary (in the rank of Joint Secretary to the Govt. of India) along with other supporting staff.

WASH Rights of Manual Scavengers:

The actions coming under the definition of manual scavenging have been formally declared unlawful and any action forcing a person to perform such actions is considered a punishable offense. The following constitutional and legal frameworks are of importance in deriving such protection under the umbrella of Law:

- 💧 The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993.
- 💧 The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- 💧 Bonded Labour System (Abolition) Act, 1976.
- 💧 Protection of Civil Rights Act, 1995 - Section 7(a) which deems anyone forcing another person to engage in bonded labour, manual scavenging or disposing of animal carcasses to be committing a criminal offense punishable with 3 to 6 months of imprisonment and imposition of fine.
- 💧 The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 or MS Act 2013

Practice of manual scavenging in any form will be a violation of Articles 14, 17, 21 and 23 of the Constitution.

Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 was passed in the Parliament in September 2013. In December 2013, the government also formulated Rules for its implementation, called "The Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules 2013" or "MS Rules 2013". The details of the Act and Rules are published on the website of the Ministry of Social Justice and Empowerment, GOI.

The broad objectives of the Act are to eliminate unsanitary latrines, prohibit the hazardous manual cleaning of sewer & septic tanks, & to maintain data on former manual scavengers & their rehabilitation.

The government has introduced a rehabilitation policy in the amended Act so that those who are/were involved in manual scavenging will be no longer be compelled to continue the demeaning work and simultaneously influence the rest of the community so that former manual scavengers will be accepted in the mainstream and will be given the same treatment as other general people

The Ministry of Social Justice and Empowerment is implementing a Central Sector Scheme, 'Self Employment Scheme for Rehabilitation of Manual Scavengers' (SRMS), under which identified manual scavengers and their dependents are provided the following rehabilitation benefits:

- 💧 One-time cash assistance of Rs.40000/-.
- 💧 Loans up to Rs.15.00 lacs at concessional rate of interest.
- 💧 Credit linked back end capital subsidy of up to Rs.3,25,000/-.
- 💧 Skill development training for up to two years with a stipend of Rs.3000/- per month.

To lodge a complaint, the following designated authorities may be contacted:

- 💧 Local government authorities - Sarpanch / Panchayat Officer of the Panchayat, BDO at the Block level
- 💧 Magistrate and/or Collector, who is the district administrator at the district level
- 💧 Human rights commission may also be approached in the prescribed process.

A complaint can be lodged by either the person himself/herself, or anyone on behalf of such a person. Such a third party who is lodging the complaint need not have any link or relation to the affected person. This opens up the doors of justice significantly, and bestows the opportunity to any and every concerned citizen to initiate corrective action. Documentary evidence, which shows the engagement of a person as a scavenger and/or photo showing that the person is cleaning and/or doing the act, which is prohibited under the specific law is to be attached.

Address:

National Commission for Safai Karamcharis

"B" Wing, 4th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi 110003,
Telephone: 011-24649352,

Rights and Redressal mechanisms for members of the Transgender community

Transgender people face significant challenges in accessing WASH services, especially in public places though the law permits usage of men's or women's WASH complexes by transgender people as per their own gender identification. Despite the legal protection, instances of barring entry, of physical and sexual abuse, and of ridicule and shaming are very frequent. There have been a few examples where separate toilet complexes were brought up for transgender people, but this has not been uniform or sustainable.

The journey for equality, recognition and dignity for the transgender people - and all the LGBTQI community in general - has been a long, arduous and painful one - and is still continuing. One of the major turning points in this journey was the filing of a petition in the Supreme Court in 2012 by National Legal Services Authority (NALSA) and others seeking equality and justice for the third gender. In its landmark judgement on 15th April 2014, the Supreme Court (National Legal Services Authority (NALSA) and others v. Union of India) paved the way for formal recognition of the third gender, and upheld their rights for accessing all provisions in the Constitution and under other relevant statutory frameworks. An Inter-Ministerial Committee was constituted which held multiple deliberations and charted out the processes for implementation of the court order. The Ministry of Social Justice and Empowerment has been designated as the Nodal Ministry for Transgender Persons with effect from July 2012, which was entrusted with the responsibility of formulating an umbrella scheme for educational, economic and social empowerment of the transgender community.

In another landmark step, the Transgender Persons (Protection of Rights) Act was passed in the Parliament in 2019, strengthening the legal standing of the third gender, and providing justiciable status for any discrimination based on gender. The Act prohibits discrimination against the transgender community in the fields of employment, education, housing, healthcare and other services. Further Section 11 of the Act mandates that all government offices should designate a special complaint officer to look into redressal of complaints made by transgender people.

The Act has also provided for setting up of the National Council for Transgenders, which is responsible for formulation of appropriate programs and policies, monitoring and reviewing progress and impacts, and also assisting in grievance redressal.

Government of Odisha Initiatives

The Odisha State government initiated the Odisha State Transgender Person Policy 2021 in consonance with Transgender Persons (Protection of Rights) Act, 2019 & Transgender Persons (Protection of Rights) Rules, 2020 for giving equal opportunity to transgender people so that transgender people are not discriminated against in terms of any position, training, promotion, transfer posting etc, and that facilities and amenities are provided to transgender people to enable them to discharge their duties in the department effectively. The Department of Social Security and Empowerment of Persons with Disabilities looks after the transgender issues.

Special schemes for Transgender community

For the social inclusion, empowerment and increased participation of the transgender community in public life the State and Central Government have taken several initiatives and are in the process of introducing several new schemes which have been outlined below:

- ◆ Basic civic amenities from Municipal Corporations.
- ◆ Food Security of Transgender Persons.
- ◆ Recruitment commissions have been advised by the General Administration Department to include Transgender (TG) as a category of gender in the application forms meant for different requirements.
- ◆ All Departments have been requested to extend the benefits of existing Government schemes to the Transgender persons. (vide UOI No. 311 dated 08.09.2016; RDCs and Collectors vide Letter No. 6509 dated 09.09.2016 and Letter No. 3094 dated 05.05.2016)
- ◆ In July 2020, the state government approved a proposal to include the transgender community under Madhu Babu Pension Yojana (MBPY,) which aims at providing financial assistance to the destitute elderly, differently-abled persons and widows.

Procedure for registering complaints

All departments are expected to designate one officer as a special complaints officer for redressal of complaints/grievances of transgender issues. Chapter VIII of the Act describes a set of offences that any transgendered person can take redressal for, and defines such offences as punishable by imprisonment.

Complaints can be lodged with the following offices:

- ◆ Designated Complaints Officer in all Departments and the respective Secretaries
- ◆ Department of Social Security and Empowerment
- ◆ **Odisha Human Rights Commission Tosali, Bhawan,**
2nd floor, Satyanagar, Bhubaneswar, 751007,
Email.shrc@nic.in, tel 0674-2570060 FAX- 0674-2572010,
HRC net is the web portal for online filling of complaint
- ◆ **National Human Rights Commission,**
Manav Adhikar Bhawan, Block-C, GPO Complex,
INA , New Delhi - 110023

Rights and Redressal mechanisms for members of Minority communities

India has always been a melting pot of multiple faiths, beliefs and religions and has embraced new schools of thought with openness. Thousands of years of coexistence has given rise to a pluralistic society with a strong foundation of harmony and cooperation among communities of different religious faiths and practices. However, given the multiplicity of such beliefs and practices, and given the population and huge geographic expanse of the country, concerns about exploitation and repression are inevitable. The Indian government has hence been proactive in its measures to ensure safety, security and protection of cultural-religious identity of all such groups.

The Indian Constitution has incorporated specific provision to ensure all religious groups get the necessary state protection. These constitutional measures are covered under two categories:

- ◆ those that are 'Common Domain' - i.e. which are common for ALL religious groups (for example, various Articles under the Directive Principles, the Fundamental Duties, the Fundamental Rights)
- ◆ those under 'Separate Domain' which accord special status and support for specific groups (for example, provisions under Article 25, Article 29, Article 30, Article 347, Article 350 etc)

National Commission for Minorities (NCM)

In order to ensure a functional framework for realising this objective, the Government of India has set up the National Commission for Minorities (NCM) under the National Commission for Minorities Act, 1992. The Act recognises six religious communities, namely Muslims, Christians, Sikhs, Buddhists, Parsis (Zoroastrians) and Jains as minority communities all over India. While the initial notification mentioned the former 5 communities, a later modification introduced in 2014 has now included Jains also as coming under the purview of this Act.

As per the 2011 Census, these 6 communities constitute approximately 19% of the total population in the country, with Muslims the most populous and the Parsis the least. Among the concerns thrown up by the 2011 census was the decline in the population of the Parsis, which has led to specific programs being launched by the India government to support the community and to shore up the numbers.

Purpose of the Commission:

The NCM adheres to the United Nation Declaration of 18 December 1992 which states that "States shall protect the existence of the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and encourage conditions for the promotion of that identity."

Functions of the Commission:

The main functions of the Commission include:

- 💧 Evaluating the progress of the development of Minorities
- 💧 Monitoring the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
- 💧 Making recommendations for effective implementation of above such safeguards for the protection of the interests of minorities
- 💧 Addressing specific complaints regarding deprivation of rights and safeguards of the minorities and taking up such matters with the appropriate authorities.

The Commission is also expected to undertake research and analysis to understand the socio-cultural dynamics and the political fall-outs of the interactions between communities, and come up with suitable policy recommendations to ensure peace, harmony and equitable growth for all.

Representation or complaints process:

The Act provides free access to all members of the specified minority communities across the country to approach the Commission for redressal of any perceived deprivation of the rights and privileges. The Commission functions under the Ministry of Minority Affairs.

The complaints received were mostly related to police atrocities, service matters, minority educational institutions and encroachments to religious properties. Reports are called for from the concerned authorities under the Union and State Governments, based on which the Commission makes appropriate recommendations to the respective authorities for redressal of the grievances.

Contact Address:

Ministry of Minority Affairs

11th Floor, Pandit Deen Dayal Antyadaya Bhawan,
CGO complex, Lodhi Road, 110003,
New Delhi,
Helpline number 1800-11-20-01.

National Commission for Minorities

3rd Floor, Lodhi Rd, Gokalpuri, Block-3,
CGO Complex, Lodhi Estate,
New Delhi, Delhi 110003
Phone - 011 2436 4816
Toll Free No. 1800-11-00-88

Rights and Redressal mechanisms for the Elderly

Senior citizens constitute a very valuable human resource in any society, given their experience, expertise, knowledge and skill sets. However, it is ironic that this specific group also has been vulnerable to neglect and has found itself marginalised.

Elderly individuals face multiple challenges due to inevitable natural limitations that evolve as age advances, with weakening of the body, mind, intellect and emotional stability, resulting in reduction in productivity as well as ability for self-care. They are vulnerable to various acute and chronic health conditions. In addition, given their financial and emotional states, they are likely to be dependent on other individuals in the society for their routine upkeep.

Older persons should have access to adequate food, water, shelter, clothing, healthcare, financial stability, income, family and community support and self-help. They should have the opportunity to work or to have access to other income-generating opportunities. They should remain integrated in the society and participate actively in the formulation of policies which effect their well-being. In addition, they should have access to healthcare to help them to maintain optimum level of physical, mental and emotional well-being. They should be able to pursue opportunities for the full development of their potential and have access to educational, cultural, spiritual and recreational resources of society. It is imperative that they be able to live in dignity and security and should be free from exploitation and mental and physical abuse.

'Family' as the very fabric of the societal structure provides a strong mechanism for ensuring safety, security, comfort and care of the elderly individuals. However, there are many unpredictabilities in the strength of relationships within a family which is true for any society, pushing vulnerable elderly individuals into a state of neglect and suffering. It is therefore the responsibility of the state to provide safeguards against such unfortunate situations. Many such safeguards have been incorporated in the governance system from time to time.

In pursuance of such safeguards, the Maintenance and **Welfare of Parents and Senior Citizens Act, 2007** was enacted to provide financial security, welfare and protection for senior citizens. It requires children to provide maintenance for their parents. By definition, Maintenance includes provision for food, clothing, residence, medical attendance and treatment. The Act also requires the government to provide old age homes and ensure medical care for senior citizens. It provides for setting up of Administrative Tribunals and Appellate Tribunals to ensure proper care of the elderly.

The Act was further amended in 2019 which has now included Homecare services for senior citizens who suffer from difficulties in performing activities of daily life due to any physical or mental impairment. In order to curb crime against senior citizens, the new amendment has provision for one Nodal Officer for senior citizens in every Police Station and a Special Police Unit for Senior Citizens in each district.

The Act provides for the formation of:

- ◆ Maintenance Tribunal at the State level, which is responsible to ensure that appropriate care is provided for the elderly individuals by the family members expected to fulfil these obligations.
- ◆ Appellate Tribunal at the District level for redressal of grievances of the elderly individuals.

The Odisha State government has initiated a scheme named ABADAN to ensure equitable justice for Senior Citizens which gives focus on the following broad objectives:

- ◆ To improve the quality of life of the Older Persons by providing basic amenities like shelter, food, medical care and entertainment opportunities.
- ◆ To expand outreach activities for welfare of senior citizens and create facilities for providing comprehensive rehabilitation services to the vulnerable elderly.
- ◆ To encourage voluntary action and participation of all stakeholders for ensuring effective implementation of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and both National and State Policy goals.

The main purpose of the program is to make available the whole range of services necessary for welfare & protection of senior citizens. With a view to encourage participation of senior citizens in the mainstream of society & actualizing their potential, the thrust has been on the following key strategies:

- ◆ To cater to the basic needs of Older Persons particularly food, shelter and health care to the destitute elderly and aids & appliances to senior citizens with disabilities.
- ◆ To implement programmes to build and strengthen intergenerational relationships particularly between children / youth and Older Persons.
- ◆ To implement programmes for encouraging Active and Productive Ageing and to provide Institutional as well as Non-Institutional Care / Services to Older Persons.
- ◆ To conduct research, advocacy and awareness building programmes in the field of ageing; and other programmes in the best interests of older persons.
- ◆ To encourage participation of senior citizens in different activities through promotion of associations of senior citizens and to recognize their participation by conferring awards.
- ◆ To facilitate achievement of policy goals through implementation of different programmes for senior citizens including training and sensitization.

Representation Process:

Any one deprived of the services can give in writing to the Senior Citizens Cell , Local Police Station to which he/she belongs, or to the District Collector. Besides these, one can lodge a complaint to the Human Rights Commission as well.

National Helpline for Senior Citizens (NHSC),

National Institute of Social Defence (NISD),

Ministry of Social Justice and Empowerment, Plot No. G-2, Sector-10, Dwarka, New Delhi-110075

Social Security and Empowerment of Persons with Disabilities (SSEPD) Department

Red Building, Lokseva Bhawan, Bhubaneswar - 751001

Help Line :18003457150, eMail Id: ssepsec.od@nic.in

Summary of Redressal Mechanism Table

Sl	Appellate body	Group	Address	Contact Address for Odisha
1	Panchayat Raj	All		
2	National/ State Human Right Commission	All	National Human Rights Commission, Manav Adhikar Bhawan, Block-C, GPO Complex, INA, New Delhi - 110023	Odisha State Human Rights Commission Tosali Bhawan, 2nd floor, Satyanagar, Bhubaneswar, 751007 Email: shrc@nic.in , Tel- 0674-2570060 FAX- 0674-2572010, Web site : www.ohrc.nic.in online filing of complaint is also available.
3	National/State Scheduled Caste Commission	Scheduled Castes	National Commission for Scheduled Caste (HQ) 5th Floor, Lok Nayak Bhawan, Khan Market, New Delhi 110003011- 24620435, 20606802, Email- chairman- ncsc@nic.in	State Commission for Scheduled Tribes N-1, NH-1, IRC Village, Nayapalli, near Iskon Temple, Bhubaneswar, Odisha 751015, Phone- 09007657121.
4	National/State Scheduled Tribes Commission	Scheduled Castes	National Commission for Scheduled Tribes (HQ) 6th Floor, B-Wing, Lok NayakBhawan, Khan Market, New Delhi-110003 011-24646954, 24624628, 24657474, 24624191	State Commission for Scheduled Tribes N-1, NH-1, IRC Village, Nayapalli, near Iskon Temple, Bhubaneswar, Odisha 751015, Phone- 09007657121.
5	National and State Commission for Women	Women	National Commission For Women, Plot-21, Jasola Institutional Area, New Delhi - 110025 24x7 Helpline:7827-170-170 011 - 26942369, 26944740, 26944754,	State Commission for Scheduled Tribes N-1, NH-1, IRC Village, Nayapalli, near Iskon Temple, Bhubaneswar, Odisha 751015, Phone- 09007657121.
6	National and State Commission for Protection of Child Rights (NCPDR)	Children	National Commission for Protection of Child Rights (NCPDR) 5th Floor, Chanderlok Building,36 Janpath, New Delhi-110001 Online portal for registering complaints-eBaalnidan Phone-Fax: 011-23724026	Odisha State Commission for Protection of Child Rights (OSCPCR) Quarter No-A-1, Unit-V, Bhubaneswar Pin - 751001 Land Line Tel - (0674) 2394041 FAX No - (0674) 2394043 Email- SCPCR2012@gmail.com

7	National and State Commissions for People with Disabilities	PWDs	National Commission for People with Disabilities E-150, Ground Floor East of Kailash, New Delhi 110065 011-26221276 / 26221277 / 49122868/ 011-26221275 Website- secretariat@ncpedp.org Email- secretariat.ncpedp@gmail.com	SDR Building, Capital Hospital Campus, Unit 6, Bhubaneswar, Odisha 751001 Phone- 0674-2390006, URL - http://scpdodisha.nic.in
8	National Commission for Safai Karmacharis	Manual Scavengers and Sanitation workers	National Commission for Safai Karmacharis "B" Wing, 4th Floor, Lok Nayak Bhawan, Khan Market, New Delhi 110003, Telephone: 011-24649352	
9	National Council for Transgenders	Transgender	T G Cell, Ministry of Social Justice and Employment, Department of Social Justice and Empowerment. Ground Floor, Antyodaya Bhawan, CGO Complex, New Delhi - 110003 +91 79 23268299 Email: tghelp@mail.inflibnet.ac.in	
10	National Commission for Minorities (NCM)	Minorities	National Commission for Minorities 3rd Floor, Lodhi Rd, Gokalpuri, Block-3, CGO Complex, Lodhi Estate, New Delhi, Delhi 110003 Phone - 011 2436 4816 Toll Free No. 1800-11-00-88	Minorities & Backward Classes Welfare Department, Lok Seba Bhawan (Odisha Secretariat) Bhubaneswar-751001 Odisha, INDIA. Phone: 0674-536672/2393249/ 2322757,Email: stscdev@gmail.com
11	Administrative Tribunals and Appellate Tribunals set up at national and state levels under Maintenance and Welfare	Elderly	National Helpline for Senior Citizens (NHSC), National Institute of Social Defence (NISD), Ministry of Social Justice and Empowerment, Plot No. G-2, Sector-10, Dwarka, New Delhi-110075	Social Security and Empowerment of Persons with Disabilities (SSEPD) Department Red Building, Lokseva Bhawan, Bhubaneswar - 751001 Help Line: 18003457150 eMail Id: ssepdsec.od@nic.in

About the Authors



Sri Purna Chandra Misra

Director, Indian Institute of Youth & Development (IIYD)

Mr. Purna Chandra Misra holds a postgraduate degree in Economics along with a Bachelor degree in Education. His journey in social service started early during his student days where he involved himself as student leader at the state level. He founded the **Indian Institute of Youth and Development (IIYD)** in 1978, with the objective of promoting youth participation in community development especially focusing on the down-trodden. He has led many grassroots level initiatives in areas including Rural Development, Health, Agriculture, Water and Sanitation, Science Communication and popularisation.

Widely travelled within India and across the globe, he has presented 28 papers in international fora, and has over 50 publications on topics related to Development. He was instrumental in the formation and growth of **FANSA (Freshwater Action Network of South Asia)**, and is currently a member of the regional steering committee. He is a past member of the steering committee of **End Water Poverty (EWP)** and is presently a member of its Task Team. He is also a member of **Human Rights To Water (HR2W) Switzerland**. He has contributed to many other NGO networks like the Viswa Yuvak Kendra, OISCA, OVHA etc. and continues to be an active member and promoter of many networks in the sectors like Water-sanitation, Human Rights, Youth Development, Health and HIV-AIDS.

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About the Authors



Dr. Seetharam M R

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Executive Director, VILD Foundation,

Dr. M R Seetharam has been part of **Swami Vivekananda Youth Movement (SVYM)**, a Development organisation headquartered in Sargur, Mysore since its inception in 1984. He is currently the **Executive Director of VILD Foundation**, and the **Managing Trustee of DISHA (Development Initiatives for Sustainable Human Advancement) Foundation**.

An **Orthopaedic Surgeon** by training, Dr Seetharam has all along been a public health practitioner and development activist at heart. He has envisaged and led the implementation of many grassroots level initiatives across key dimensions of Community Development including Health, Education, Socio-economic Empowerment and Training. Disability, Water-Sanitation-Hygiene-Environment, Tribal Development, Culture-Heritage, Microfinance have been some of the key areas of his interest and expertise.

Dr Seetharam has been part of many networks in sectors like WASH, Disability, HIV and Tribal Development. He has been actively involved in formation and growth of **FANSA - Freshwater Action Network South Asia**, and is currently a **member of the Steering Committee at the Regional South Asia level**. He is a **member of the Steering Committee of Sanitation & Water For All**, a global platform hosted by UNICEF, where he represents the South Asian CSO sector. He has been a Resource Person and invited speaker on many diverse aspects of Development, including Health, Education, Youth-Women Development, WASH, IWRM, Tribal Development etc. He is also involved in varied pursuits including Spirituality, Culture-Heritage, Archaeology-History, bird watching, wildlife and astronomy. Study of literature, especially Sanskrit, is of great interest.

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