

Right to Sanitation In India: A Socio-Legal Study with Special Reference to Lucknow City, Uttar Pradesh

THESIS

SUBMITTED TO THE
BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY
LUCKNOW



FOR THE AWARD OF THE DEGREE OF

Doctor of Philosophy

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LUCKNOW – 226025 (U.P.), INDIA

2022



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CERTIFICATE

This is to certify that the thesis titled "*Right to Sanitation in India: A Socio-Legal Study with Special Reference to Lucknow City, Uttar Pradesh*" submitted by **Ms. Indu Bala** is an original research work and has not been previously submitted in part or full for the award of any other degree or diploma to this or any other university.

This thesis submitted to Babasaheb Bhimrao Ambedkar University, Lucknow satisfies all the requirements as stipulated in the Doctor of Philosophy (Ph.D.) regulations, 1999 as amended in 2013 and it is fit for submission and evaluation for the award of the degree of Doctor of Philosophy of the University.

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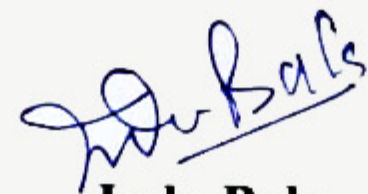
DECLARATION

I, **Indu Bala**, hereby declare that this research work embodied in this Ph.D. thesis titled "*Right to Sanitation in India: A Socio-Legal Study with Special Reference to Lucknow City, Uttar Pradesh*" has been carried out by me under the supervision of **Prof. Shashi Kumar**, Department of Human Rights, School of Legal Studies, Babasaheb Bhimrao Ambedkar University (A Central University) Lucknow.

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Acknowledgment

Research is an activity that requires deep sincerity, punctuality, and proper guidance. It is gathered or produced by unwavering persistence and many hands-on efforts. Similarly, this thesis too could never have reached its finality without the support, encouragement, and help of many individuals. I express my gratitude to all those who contributed in many ways to make this study a success.

*It is a genuine pleasure to express my deep sense of thanks and gratitude to my mentor, philosopher, and guide, **Prof. Shashi Kumar**, Department of Human Rights, School of Legal Studies, BBAU. His dedication and keen interest, and above all, his tremendous helping attitude, acted as the primary motivation for me to complete my research work. His timely advice, meticulous scrutiny, knowledgeable advice, and scientific approach have helped me, to a very great extent, in accomplishing this task.*

*I humbly and wholeheartedly bow to **Prof. Preeti Misra**, Dean & Head Department of Human Rights School of Legal Studies, BBAU, who left no stone unturned to provide necessary facilities whenever and wherever the need arises. I express my deep sense of gratitude to **Prof. Priti Saxena**, Department of Human Rights, School of Legal Studies, BBAU, Lucknow, for her insightful comments, determined encouragement and wise counseling in my crucial time. I also feel obliged to **Dr. Rashida Ather**, Assistant Professor, Department of Human Rights, School of Legal Studies, BBAU, for their generous behaviour, inspiration, and support. I am also grateful to **Dr. Anis Ahmad**, Assistant Professor, Department of Law School of Legal Studies, BBAU and **Dr. Pradeep Kumar**, Assistant Professor, Department of Law School of Legal Studies, BBAU, for giving useful and valuable advice, suggestions, and academic support.*

*I am extremely grateful to my fraternal friends and well-wisher, **Yogesh Kumar** (Research Scholar, JNU) **Adv. Chhaya Gautam, Manjari Kureel, Mr. Ravindra Pratap Singh, Dr. Ragini Narain, Dr. Preeti Bhaskar and Dr. Ashish Kumar Gautam** for giving me their valuable time, which helped me a lot to materialize my research work. I also express my special thanks to fellow research scholars **Mr. Rajit Ram Sonkar, Mr. Prashant Tripathi, and Mr. Ashok Bharat** for their cooperation and valuable suggestions throughout my research work.*

I would like to express my thanks to the library staff of the Gautam Buddha Central Library B.B.A. University, Lucknow, RML National Law University, Lucknow, and Giri

Institute of Development Studies, Lucknow, for their immense support. I would also like to forward thanks to the non-teaching staff of the Department of Human Rights for their support.

*Last but not least, I am grateful and forever indebted to My Loving Father, **Sri Ishwar Dayal** and My Mother, **Mrs. Urmila Dayal** for making me whatever I am today. Their continuous and unparalleled love, motivation, blessings, support and lifetime guidance made it possible to complete this research work. I acknowledge the patience and love of my family members, who always supported me in focusing on my work under challenging situations.*

- **Indu Bala**

Sanitation is a global problem that invokes political, cultural, religious, social, and economic issues. The provision of sanitation is a major development intervention without which it becomes impossible to live with dignity. Inadequate sanitation impacts individuals, households, communities, and countries. Therefore, sanitation is a vital part of human life and an interconnected system, i.e., from “Awareness to Disposal.” To achieve this, we need to adopt proper sanitation infrastructure and create awareness among the public to maintain sanitation facilities, the good health of human beings, and the environment.

At the international level, sanitation has been viewed as an implicit component of the right to an adequate standard of living and health. The International Year of Sanitation, 2008, called for all nations to recognise that access to hygienic sanitation is equally important to ensure health and dignity. A number of international legal instruments have also recognized the right to sanitation included within the human right to an adequate standard of living. The human right to water and sanitation was explicitly recognized by the United Nations General Assembly and the Human Rights Council only in 2010. This clear recognition has stimulated a great interest as well as a positive attitude towards the human right to sanitation. Till date, many states have included this human right in their Constitutions and national legislations. India provides an example of the implicit constitutional guarantee of human rights to water and sanitation. Though, it has had little or no influence on the development of the right to sanitation in India, as India has a long history of recognizing the right to sanitation. In addition, case laws settled by courts at both the state and federal levels have interpreted Article 21 (the right to life) of the Constitution to include the right to safe and adequate water and sanitation.

In India, sanitation challenges are more severe than in many other countries. India faces several sanitation-related issues, for example, taboos about women and girls during menstruation, health, environment, dignity, manual scavenging, open defecation, etc. These practices are unacceptable from the human rights perspective also. Despite this, the recognition of the right to sanitation is unambiguous. We cannot blame it only on administrative inefficiency; many other factors related to sanitation, such as rituals and

cultural beliefs, which were in practice for centuries, have also been the reason. The biggest obstacle has been the taboo around sanitation. For example, the distaste for the toilet was related to maintaining the purity of the house. People used to justify open defecation because they thought it was better to go to defecation away from home, so people who built toilets often built them away from home. Some people see latrines and toilets as ‘ritually impure,’ no matter how clean they are kept.

Although there is no comprehensive statutory framework for realizing the right to sanitation in India, a complex framework consisting of various laws, policies and administrative directives at various levels govern sanitation. Nevertheless, there are still misunderstandings and uncertainties about what needs to be done to realize the human rights of sanitation by the states as well as the individuals themselves. Thus, the real challenge now is to translate international human rights obligations into meaningful action on the ground. We must place the human right to sanitation firmly at the centre of laws, policies, and regulations.

Date:

Indu Bala

Place:

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8.	Citizens Action Committee, Nagpur vs. Civil Surgeon, Mayo (General) Hospital, Nagpur and Ors.	AIR 1936 Bom. 136
9.	Consumer Education and Research Centre and others vs. Union of India	AIR 1995 SC 922, (1995) 3 SCC 42
10.	Delhi Jal Board vs. National Campaign for Dignity and rights of sewerage and Allied workers & Others	2011 STPL (Web) 593 SC
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ABRIVIATIONS

AIR	:	All India Reporter
Art.	:	Article
APL	:	Above Poverty Line
ARWSP	:	Accelerated Rural Drinking Water Supply Program
BCC	:	Behaviour Change and Communication
BPL	:	Below Poverty Level
CAA	:	Constitutional Amendment Acts
CAPART	:	Council for Advancement of People's Action and Rural Technology
CBO	:	Community Based Organizations
CCDU	:	Communication and Capacity Development Units
CEDAW	:	Convention on the Elimination of all forms of Discrimination Against Women
CESCR	:	Committee for Economic, Social and Cultural Rights
CLTS	:	Community-led Total Sanitation
CRC	:	Convention on the Rights of the Child
CRSP	:	Central Rural Sanitation Programme
CSO	:	Civil Society Organisations
DDWS	:	Department of Drinking Water and Sanitation
FYP	:	Five Year Plan
GOI	:	Government of India
GoUP	:	Government of Uttar Pradesh
HRtW	:	Human Right to Water
HRtWS	:	Human Right to Water and Sanitation
Ibid	:	Ibidem (in the same place)
ICESCR	:	International Covenant on Economic, Social, and Cultural Rights
IDSMT	:	Integrated Development of Small and Medium Towns
Id	:	Idem (in the same)
i.e.	:	id est (that is)
IEC	:	Information, Education and Communication
IHHTs	:	Individual House Hold Toilets
ILCS	:	Integrated Low Cost Sanitation Scheme
IPC	:	Inter Personal Communication

JMP	:	Joint Monitoring Programme
JNNURM	:	Jawaharlal Nehru National Urban Renewal Mission
MDG	:	Millennium Development Goal
MDWS	:	Ministry of Drinking Water and Sanitation
MLD	:	Million Litres per Day
MNP	:	Minimum Needs Programme
MoHUA	:	Ministry of Housing and Urban Affairs
MoUD	:	Ministry of Urban Development
MSW	:	Municipal Solid Waste
NARSS	:	National Annual Rural Sanitation Survey
NBA	:	Nirmal Bharat Abhiyan
NGO	:	Non-Governmental Organizations
NGP	:	Nirmal Gram Puraskar
NRDWP	:	National Rural Drinking Water Programme
NRLM	:	National Rural Livelihood Mission
NSSO	:	National Statistical Organizations
OD	:	Open Defecation
ODF	:	Open Defecation-Free
OHCHR	:	United Nations Office of the High Commissioner for Human Rights
PADI	:	People's Action for Development India
PCC	:	Pollution Control Committee
PIA	:	Project Implementing Agencies
POWs	:	Prisoners of War
PPP	:	Public Private Partnership
PRIs	:	Panchayat Raj Institutions
QCI	:	Quality Council of India
RDO	:	Rural Development Organisation Trust
RSM	:	Rural Sanitary Marts
RTWS	:	Right to Water and Sanitation
SAP	:	Swachhata Action Plan
SBA	:	Swachh Bharat Abhiyan
SBM (G)	:	Swachh Bharat Mission (Gramin)
SBM (U)	:	Swachh Bharat Mission (Urban)
SC	:	Scheduled Caste
SC	:	Supreme Court
SCC	:	Supreme Court Cases

SDG	:	Sustainable Development Goal
SHG	:	Self Help Groups
SHPC	:	State High Power Committee
SIP	:	Swachh Iconic Places
SKA	:	Safai Karamchari Andolan
SLWM	:	Solid and Liquid Waste Management
SPCB	:	State Pollution Control Board
SSA	:	Sarva Shiksha Abhiyan
SM	:	Septage Management
ST	:	Scheduled Tribe
STP	:	Sewage Treatment Plant
TCSR	:	Tata Chemicals Society for Rural Development
TPD	:	Tonnes Per Day
TPP	:	Twenty Point programme
TSC	:	Total Sanitation Campaign
UDHR	:	Universal Declaration on Human Rights
UIDSSMT	:	Urban Infrastructure Scheme for Small and Medium Towns
UIG	:	Urban Infrastructure and Governance
ULBs	:	Urban Local Bodies
UN	:	United Nations
UNCESCR	:	United Nations Committee on Economic, Social and Cultural Rights
UNDP	:	United Nations Development Programme
UNICEF	:	United Nations International Children Education Funds
UPSSMP	:	Uttar Pradesh State Septage Management Policy
UPUSP	:	Uttar Pradesh Urban Sanitation Policy
VOs	:	Voluntary Organizations
Vol.	:	Volume
WASH	:	Water, Sanitation and Hygiene
WHO	:	World Health Organisation
WSS	:	Water Supply and Sanitation
WSSOs	:	Water and Sanitation Support Organizations

INTRODUCTION

Sanitation is one of the foundations of a healthy and dignified life.¹ It is an integral aspect of human life and generally related to our day-to-day activities such as maintaining cleanliness, hygiene, bathing, washing hands, proper defecation, and maintaining scientific distance from pollutants and wastes. Many infectious diseases occur due to a lack of sanitation. Sanitation is important for the elite as well as the general public. Above all, it is important for those sections of society who are engaged in occupations which are conceded as unclean. Moreover, it is an important detriment of all model of development, viz. economic, social, human, or sustainable development.² Sanitation is important for the social and economic progress of an individual as well as for the growth of the country. In 2011, studies was conducted by the World Bank showed that inadequate sanitation is costing billions of dollars in India.³

Sanitation has always been seen with water under the various international and national legal frameworks, due to which more attention was given to water only, and sanitation has been ignored. The International Year of Sanitation in 2008 played an important role in tackling the global sanitation challenge and making sanitation a separate human right.⁴ It was recognized that, for the human right to sanitation and its realization, it is necessary to define the human rights to water and sanitation as separate and distinct human rights so that governments, citizens, societies, and other stakeholders, have specific standards for the attainment of sanitation. Distinguishing

¹ Report of WHO/UNICEF, *State of the World's Sanitation: An urgent call to transform sanitation for better health, environments, economies and societies*. United Nations Children's Fund (UNICEF) and the World Health Organization, New York, 2020.

² Mohammad Akram, *Sociology of Sanitation*, p.144 (Kalpaz Publication, New Delhi, 2015).

³ World Bank, *The Economic Impacts of Inadequate Sanitation in India*, (World Bank, Washington, DC, 2011).

⁴ Pedi Obani, Joyeeta Gupta, Human right to sanitation in the legal and non-legal literature: the need for greater synergy, vol.3(5), *Wiley Interdisciplinary Reviews: Water*, (2016).

between these two rights will make it easier for states and other stakeholders to understand the specific responsibilities, obligations, and roles inherent in the realization of each of them.⁵ Consequently, in August 2010, the United Nations General Assembly, through a resolution,⁶ formally recognized “the right to safe and clean drinking water and sanitation as a human right essential to the full enjoyment of life and of all human rights.”⁷

The right to sanitation has been recognized directly or indirectly under various international legal frameworks. The Universal Declaration of Human Rights (UDHR), 1948, a milestone document in the history of human rights, deals with fundamental human rights such as health, food, housing, the right to live with human decency and dignity, etc. It was drafted by representatives of different legal and cultural backgrounds from all regions of the world.⁸ In 1948, when the UN General Assembly adopted the Universal Declaration of Human Rights, the human rights to water and sanitation were not explicitly included. This omission can be understood in the context of the time when colonialism was then a dominant force. The rationale behind not specifically including water as other rights such as food, clothing, and shelter, etc., was that water like air is already freely available to all.⁹ Still, the preamble and Article 25 of UDHR recognizes the right to sanitation impliedly. The United Nations conventions and resolutions have recognized that sanitation falls under an adequate standard of living. These conventions includes, the International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966,¹⁰ the Convention on the Elimination of All Forms of Discrimination Against Women 1979,¹¹ the Convention

⁵ Catarina de Albuquerque, *Realising the human rights to water and sanitation*, (WASH, Portugal, 2014)

⁶ United Nations, Resolution on The Human Right to safe Drinking Water and Sanitation, 2010 (UN Doc. A/RES/64/292), Available at: www.ielrc.org/content/e1310.pdf. (visited on: September 14, 2018)

⁷ Thorsten Kiefer, *et al.*, *The Human Right to Safe Drinking Water and Sanitation in Law and Policy - A Sourcebook*. (WASH United, Freshwater Action Network (FAN Global), and Water Lex, 2012)

⁸ United Nations, Universal Declaration of Human Rights, 1948. Available at: <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (visited on: September 14, 2018)

⁹ Catarina de Albuquerque, *Realising the human rights to water and sanitation*, (Human Right to Water and Sanitation, Portugal, 2014).

¹⁰ Article 11 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 ensures the provisions of ‘adequate standard of living’ and ‘right to health’ respectively.

¹¹ Article 14 (2) (h) of the Convention on the Elimination of All Forms of Discrimination Against Women, 1979 provides ‘the right to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.’

on the Rights of Child 1989,¹² and the Convention on the Rights of Persons with Disabilities (CRPD), 2006.¹³

It is clear that the human right to sanitation has been incorporated under international law as a basic human right under the head of an adequate standard of living. In many international human rights laws, sanitation has always been seen to be associated with water. The link between the right to water and the right to sanitation is also recognised by the General Comment No. 15 (on Right to Water) of the United Nations Committee on Economic, Social and Cultural Rights, 2002 and United Nations Committee on Economic, Social and Cultural Rights, Statement on the Right to Sanitation, 2010. The ICESCR is perhaps an essential legal instrument for the right to sanitation. In 2010, the United Nations Committee on Economic Social and Cultural Rights adopted the Statement on the Right to Sanitation, which explained that Article 11 of the ICESCR covers a wide range of rights, including sanitation. It was probably the first step towards explicit recognition of an individual right to sanitation at the international level. In 2015, the United Nations General Assembly adopted another resolution that differed significantly from previous resolutions relating to the right to sanitation. This resolution recognized the right to water and the right to sanitation as separate rights. However, the real challenge was to translate the obligations related to human rights to sanitation into meaningful action on the ground. The Government of India ratified the ICESCR on 10 April, 1979. It reaffirmed its commitment in 2010 by voting in favour of a specific United Nations resolution that explicitly recognized sanitation's right.

The United Nations Millennium Declaration, 2000, included eight Millennium Development Goals (MDGs) to be completed in 2015. Target 7c of the MDGs determines that, "by 2015, halve the proportion of people without sustainable access to safe drinking water and basic sanitation." With regard to sanitation, the rates of progress was too slow for the MDG target to be met globally. Although we have made significant progress toward the drinking water, but more needs to be done to achieve the sanitation target. As of 2015, 2.1 billion people worldwide had access to improved

¹² Article 24 of the Convention on the Rights of Child, 1989, emphasized that 'States have a responsibility to ensure access to clean drinking water.'

¹³ Article 28(a) of the Convention on the Rights of Persons with Disabilities, 2006 provides, 'the right to ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs.'

sanitation. Despite progress, 2.4 billion people were still using poor sanitation facilities, with 946 million engaging in open defecation.¹⁴ The sanitation goal has been included, for the first time, under Section 8 of the Plan of Implementation of the World Summit on Sustainable Development (SDGs) held in 2002. The Summit adopted some new and transformed SDGs including human dignity, access to clean water, sanitation, improve environmental problems, improve human health, etc. Its Goal-6 is related to sanitation, targeted to achieve “universal and equitable access to safe and affordable drinking water and, access to adequate and equitable sanitation and hygiene for all by 2030.”¹⁵ NITI Aayog and United Nations Resident Coordinator (UNRC) in India signed the United Nations Sustainable Development Framework (UNSDF) 2018–22, which is a five-year roadmap outlining the action-oriented response of UN agencies to key national developmental priorities, integrating the Sustainable Development Goals.¹⁶

There has been some increase in the number of people around the world using basic and safe sanitation services. The proportion of the global population using sanitation services safely increased from 47% in 2015 to 54% in 2020. Out of which, rural coverage increased from 36% (2015) to 44% (2020), and urban coverage increased from 57% (2015) to 62% (2020).¹⁷ Yet, by 2020, 3.6 billion people lacked safely managed sanitation services, including 1.9 billion with basic sanitation, 580 million with limited sanitation services, and 616 million using non-improved sanitation facilities, and 494 million people were defecating in the open.¹⁸

Sanitation is a habit that needs to be inculcated. Poor sanitation not only leads to the rapid spread of disease, but can also affect health, education and the environment. Human beings need proper sanitation to eradicate these diseases and protect the environment. The concern for environmental health and maintenance of proper public hygiene was deeply embedded in ancient Indian customs and traditions.

¹⁴ Available at: <https://www.un.org/millenniumgoals/enviro.html> (visited on: March 15, 2019)

¹⁵ United Nations, The Sustainable Development Goals Report 2020. Available at: <https://unstats.un.org/sdgs/report/2020/The-Sustainable-Development-Goals-Report-2020.pdf> (visited on: February 15, 2021)

¹⁶ Government of India, NITI Aayog and United Nations in India sign Sustainable Development Framework for 2018-2022 (NITI Aayog, Press Information Bureau, September 28, 2019)

¹⁷ Report of WHO/UNICEF, Progress on household drinking water, sanitation and hygiene 2000-2020: five years into the SDGs, World Health Organization (WHO) and the United Nations Children’s Fund (UNICEF), Geneva, 2021.

¹⁸ *ibid*

Our ancestors were very much aware about the complete sanitation system. Despite this, sanitation did not get the sociological attention it deserves.¹⁹

In the ancient time, until people had an established residence, they did not have a toilet. They would defecate wherever they felt like doing so. When they learned to build a *pucca* house, they moved the toilet to the courtyard and then inside his house. After that, dealing with the smell became a challenge, and a need was felt for a toilet that could consume human wastes and flush them out of the house immediately and, thus, help in maintaining cleanliness. People made various attempts to dispose of human wastes or sewage, such as chamber pots, which were cleaned manually by the servants or slaves, toilets protruding out of the top floor of the house or the castle and disposal of wastes in the moat below, or common toilets with holes on the top of flowing river.²⁰

At that time, toilet habits were often considered as important reflection of ethnic, socio-culture, and economic backgrounds of the individuals. While the rich used luxurious toilet chairs or close stools, the poor defecated on the roads, in the jungle or straight into the river.²¹ Some of the other factors that contribute to open defecation are high density of population, lack of toilets, poverty, and the beliefs that defecating in the open is normal and healthy, and that building a lavatory in the house would be insanitary. Before the advent of flushing toilets, it was not uncommon to manually dispose of human excreta. This was because, for upper-caste, the notion of cleanliness extended to the ideas of “purity” and “pollution”, and bodily waste was considered ritually impure. Therefore, the handling of human excreta will be the responsibility of someone who is at the lowest level in the caste hierarchy and his place of residence will be far away.²²

The development of efficient drainage through flush toilets replaced the need for manual scavenging. It gradually replaced caste-based ideas of purity and pollution and became more tied to questions of public sanitation. Thereafter, the government felt the need to provide public toilet facilities to those people who could not afford the cost of individual toilets. With sanitation problems rampant across the country, the

¹⁹ Kalyani, Personal Hygiene and Sanitation in Ancient India, Vol. 6(9), *European Journal of Biomedical and Pharmaceutical Sciences*, pp.116-117(2019).

²⁰ <https://www.sulabhtoiletmuseum.org/history-of-toilets/> (visited on: November 12, 2021)

²¹ <https://www.sulabhtoiletmuseum.org/history-of-toilets/> (visited on: November 12, 2021)

²² Suhasini Krishnan, The Modern Bathroom and the Home – A Story of Style, Aspiration and Social Mobility, *Art Deco Mumbai*, March 07, 2022.

government needed to address two of its biggest sanitation problems, i.e., open defecation and manual scavenging.²³

The practice of open defecation is a behavioral problem at the social level and is a major cause of infectious diseases. It also causes environmental degradation which directly affects health and quality of life.²⁴ Apart from this, women have to face many other social and health-related problems due to open defecation, such as a threat to the privacy and dignity of women, risk of physical assault and abuse on women etc. Although these consequences of open defecation are a major cause of psychosocial stress for women, still they fall under the category of less important issues that are difficult to deal with.²⁵ In other words, poor sanitation, although, related to several aspects of human life but seen more exclusively in relation to human defecation and safe disposal of human faeces.²⁶

Access to sanitation services can only be addressed through proper understanding between states, development actors and individuals. But one of the main challenges of sanitation relates to determining the concept of sanitation itself.²⁷ The concept of sanitation has neither been defined by any classical or contemporary sociologist nor is there any clear definition of sanitation declared by the United Nations system.²⁸ Even though there are many definitions of sanitation, but they do not adequately capture all the relevant human rights dimensions.

Sanitation was generally understood as a way to control and/or treat human excreta (and in some cases greywater) to protect human health and the environment.²⁹ The “Improved” access to sanitation was defined by the Joint Monitoring Program (JMP) as “the hygienic separation of human excreta from the human.”³⁰ The World Health Organization defines that “sanitation generally refers to providing facilities

²³ Available at: <https://www.policyforum.net/the-struggle-forsanitation> (visited on: November 8, 2019)

²⁴ Giribabu, *et al.*, Combating Open Defecation through Community-led Sanitation, vol 1(3-4), *Dr. Sulaiman Al Habib Medical Journal*, pp.45-51 (2019)

²⁵ M Saleem *et al.*, Health and social impacts of open defecation on women: a systematic review, Vol. 19, *BMC Public Health*, pp. 158. (2019)

²⁶ Catarina de Albuquerque, ‘*Realising the human rights to water and sanitation: A Handbook by the UN Special Rapporteur on the human right to safe drinking water and sanitation*,’ (Precision Fototype, Bangalore, 2014)

²⁷ P. Cullet, S.Koonan *et al.* (ed.), *The Right to sanitation in India: Critical Perspective* (Oxford University Press, New Delhi, 2019)

²⁸ M. Akram, *Sociology of Sanitation*, (Kalpaz Publication, New Delhi, 2015)

²⁹ Colleen Naughton and James Mihelcic, Introduction to the Importance of Sanitation, *Global Water Pathogen Project* (2017).

³⁰ *ibid*

and services for the safe disposal of human urine and faeces. The word ‘sanitation’ also refers to the maintenance of hygienic conditions through services such as garbage collection and wastewater disposal.”³¹ The definition of WHO, seen sanitation only from a health perspective and restricts it to the safe disposal of human urine, faeces, or waste. The definition of sanitation should be broadened and, excreta, wastewater collection methods, transportation of waste, treatment, and all reuse or disposal manners also need to be well considered.³²

In India, sanitation has been seen as a comprehensive concept, which includes liquid and solid waste disposal, food hygiene, personal, domestic as well as environmental hygiene.³³ Another concept of sanitation includes personal hygiene, home sanitation, safe water, garbage disposal, excreta disposal, and wastewater disposal.³⁴ These definitions were helpful in linking hygiene and sanitation, environment and sanitation, the individual and public dimensions of sanitation, and link between the liquid and solid waste management. At the same time, they failed to specifically include manual scavenging and gender issue in the ambit of sanitation.³⁵ This limited definition remains of limited relevance as there is no definition of sanitation in any law. Lack of definition is problematic from two different perspectives. First, the scope and understanding of sanitation differ in rural and urban areas. Second, the sanitation interventions focus only on ensuring the construction of toilets in each household.³⁶

Providing safe sanitation facilities to millions of people is a significant challenge, especially in the world’s second most populated country, i.e., India. Sanitation in India has long been plagued by chronic under-priority, lack of

³¹ WHO, *The sanitation challenge: turning commitment into reality* (2004). Available at: https://www.who.int/water_sanitation_health/hygiene/sanchallengecomp.pdf (visited on: September 13, 2020)

³²P. Cullet, S. Koonan, *et al.* (ed.), *The Right to sanitation in India: Critical Perspective* (Oxford University Press, New Delhi, 2019)

³³ Government of India, “Guidelines for Central Rural Sanitation Program- Total Sanitation Campaign” (Ministry of Rural development, department of Drinking Water Supply, 2001).

³⁴ Government of India, “Guideline for Nirmal Bharat Abhiyan” (ministry of Drinking Water and Sanitation, 2012).

³⁵P. Cullet, S. Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspective*, p.76 (Oxford University Press, New Delhi, 2019)

³⁶P. Cullet, S. Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspective*, (Oxford University Press, New Delhi, 2019)

leadership, low investment, and capacity constraints.³⁷ After independence, the right to sanitation has been included in various Legislation, Judgments, and different Administrative orders and policy documents. The Supreme Court of India has recognized sanitation as a fundamental right linked to the right to life under Article 21 of the Constitution of India. In **Virendra Gaur vs. State of Haryana**³⁸, and **L.K. Koolwal vs. State of Rajasthan**,³⁹ the Supreme Court stated that “*Art. 21 protect the Right to Life as a Fundamental Right. Enjoyment of life and its attainment, including their right to life with human dignity, encompasses within its ambit, water, and sanitation, without which one cannot enjoy life.*” The right to sanitation is not explicitly recognized as a Fundamental Right in the Constitution of India, but it is directly linked to other fundamental rights, mainly the right to water,⁴⁰ the right to health,⁴¹ the right to education and the right to a clean environment.⁴²

Sanitation is a state subject under the Constitution of India. It means that States have the primary duty to maintain sanitation. The Directive Principles of State Policy directs the state to take measures to improve the condition of the environment and health while making laws. It directs the state to take measures to improve the condition of the environment and health, which is directly connected to sanitation. Article 47, incorporated by the 42nd Amendment of the Constitution of India, casts an obligation on the State to address the issues related to public health as its foremost duty. Apart from it, Article 48-A enjoins that the State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country. Under Article 51-A (g), the Constitution of India also casts a fundamental duty on every citizen of India to protect and improve the natural environment.

The Seventh Schedule of the Constitution of India provides that the States have the primary duty to maintain sanitation under Entry-6 (public health and sanitation, hospitals and dispensaries) of List II. The constitutional 73rd Amendment introduced the Panchayat system and added a new **Part IX (Articles 243 to 243O)** to

³⁷Report of WHO/UNICEF, *State of the World's Sanitation: An urgent call to transform sanitation for better health, environments, economies and societies*. United Nations Children's Fund (UNICEF) and the World Health Organization, New York, 2020.

³⁸(1995)2 SCC 577

³⁹AIR 1988 Raj. 2, para 3.

⁴⁰Hamid Khan vs. State of Madhya Pradesh, AIR 1997 MP 191.

⁴¹Consumer Education and Research Centre vs. Union of India, (1995) 3 SCC 42.

⁴²Subhash Kumar vs. the State Of Bihar, AIR 1991 SC 420.

the Constitution. A new Schedule, viz. Eleventh Schedule, has also been added. This Schedule lists the functions which a State Legislature may, by law, assign to the Panchayats. Entry 23 of the Eleventh Schedule also provide for health and sanitation. It means that at the village, intermediate and district levels Panchayats have the primary duty to deal with the sanitation problems. The Constitution 74th Amendment further added a new **Part IX-A (Articles 243P to 243ZG)** to the Constitution. A new Schedule, viz. Twelfth Schedule is also added to the Constitution. This Schedule lists the functions which a State Legislature may by law assign to the Municipalities. Entry 6 of the Twelfth Schedule provides for ‘public health, sanitation conservancy, and solid waste management.’ Thus, both the 73rd and 74th Constitution Amendments seek to decentralise decision-making power from top to bottom and thus strengthen democracy at the grass root level. In **Municipal Council, Ratlam vs. Vardhichand**, the Supreme Court had made it clear that municipalities could under no circumstance refuse to fulfil their statutory duties. Also, Article 51-A (g), casts a fundamental duty on every citizen of India to protect and improve the natural environment.⁴³

The Government of India has launched multiple sanitation policies across India. In rural areas, the Central Rural Sanitation Programme (CRSP) was adopted in 1986 to provide an 80 percent subsidy for constructing individual sanitary latrines for the Below Poverty Line (BPL) households on-demand basis. In 1999, the CRSP was restructured when the Government of India adopted the Total Sanitation Campaign to achieve universal rural sanitation coverage by 2012 through a demand-driven and community-led programme approach. In 2012, Nirmal Bharat Abhiyan replaced the Total Sanitation Campaign. In urban areas, the National Urban Sanitation Policy, 2008 deals with the challenges of urban sanitation. Centrally sponsored schemes such as Jawaharlal Nehru National Urban Renewal Mission provide funds for creating sanitation assets like individual toilets, community toilet blocks, and wastewater disposal and treatment facilities at the city level. On 2nd October 2014, Prime Minister of India Narendra Modi launched the Swachh Bharat Mission (SBM) or Swachh Bharat Abhiyan (SBA), which aims to eradicate open defecation by 2019. Swachh Bharat Abhiyan is a national campaign by the Government of India, covering 4041 statutory cities and towns to clean the streets, roads and infrastructure in the country. The government aims to achieve an Open Defecation Free India by 2nd

⁴³ Municipal Council, Ratlam vs. Vardhichand, 1980 AIR 1622, 1981 SCR (1) 97

October 2019, the 150th birth anniversary of Mahatma Gandhi, by constructing 12 crore toilets in India. SBM, although a single programme, addresses rural and urban sanitation separately through SBM-Gramin and SBM-Urban respectively. In 2019, the government of India has approved the second phase of the Swachh Bharat Mission (Gramin) [SBM (G)], i.e., SBM 2.0, from 2020-21 to 2024-25. It will focus on open defecation free (ODF plus) including ODF sustainability and solid and liquid waste management (SLWM). The program will also work towards ensuring that no one stays behind and everyone uses the toilet.

1.1 STATEMENT OF THE PROBLEM

Sanitation and water are intrinsically linked. This link is indeed a necessary one, but it is not correct to combine these two rights in one subject. Each right has its own set of specific meaning and characteristics. It is seen that right to water has been emphasised more in compare to the right to sanitation. Consequently, sanitation has not been recognised as a right till date. Even though, the realization of the right to sanitation is a precondition for the realization of other rights, such as right to life, the right to water, right to health, the right to environment, etc. Thus, right to sanitation must read as a separate right but, at the same time, intrinsically linked to other fundamental rights.

The quality of human life, directly or indirectly, depends upon accessibility to adequate sanitation facilities. Lack of sanitation infrastructures such as toilets, drainage, and sewer facilities in rural and urban areas promotes insanitary practices like open defecation. Construction of private and public toilets is an important step to achieve sanitation goal but it represents a limited entry point for the realization of the right to sanitation. Instead of implementing the Right to Sanitation in a broader sense, the focus is only on the construction of toilets, which is ignoring many other dimensions of sanitation. For example, if toilets are not used, then the problem of open defecation cannot be solved by construction of toilets alone.

Poor and vulnerable populations have lower access to improved Water, Sanitation, and Hygiene (WASH) services. These vulnerable populations including women, children, the elderly, disabled persons, landless people, migrant workers, and scheduled castes and scheduled tribes. The improved sanitation standards gives

assurance of lives with dignity and equal treatment for both men and women to those vulnerable people also. Women, children, and other vulnerable groups face the wrath of being forced to defecate and urinate in open areas due to the lack of sanitation facilities in rural areas. For example, women often have to go to remote places outside the village for defecation at night or early in the morning, putting women at risk of sexual assault. In addition, due to a lack of safe sanitation, vulnerable people have to compromise on their dignity. For the realization of right to sanitation, the toilet construction might be a necessary step towards ending open defecation, but other dimensions such as dignity and gender equality are also worth to consider in national policies.

Another problem that requires emergent attention is the inadequate disposal of sewage and improper waste management that has failed to improve with the rapid expansion of the urban population. Sewage is that part of the wastewater that is contaminated with faeces or urine. Wastes that can cause health problems are sewage, solid waste, domestic wastewater, and industrial waste. We found household waste and waste-water everywhere. This impacts on the environment directly and severely. Yet, there is significant disconnection between sanitation and environment, both at the regulatory level and on the ground. The sanitation framework is still largely silent on the broader environmental consequences of the different sanitation dimensions.

From a legal perspective, the right to sanitation is well-contained in the case laws by the higher judiciary (Supreme Court and High Courts) of India as there is no any legal instrument that addresses sanitation directly or explicitly at the national as well as state level. Separate law for sanitation, which covers all the dimensions of sanitation, has not been considered so far. Further, to realize the right to sanitation, the orders/guidelines given by the Supreme Court and High Courts are not being properly implemented.

Another major issue related to the sanitation problem is the recruitment policy of *safai karamcharis* in the Municipalities and Panchayats. A community of particular caste is engaged in sweeping work, while others still feel it as a most disgraceful work, though, they are employed only on paper for the same work. Thus, firstly such persons are indirectly practicing untouchability, and secondly affecting the sanitation work for which they are employed. Sanitation workers also include manual scavengers.

The government has also formulated several policies related to sanitation, but due to lack of proper implementation, the problem of sanitation has remained the same. Although the governments are responsible for solving the problems of sanitation through various means, the government's irresponsible attitude hinders it.

Government policies lack behaviour change and awareness programs and its implementation. Unfortunately, due to the lack of these programs, people are not aware of the poor health consequences of adopting poor sanitation facilities. In the absence of information and knowledge, people do not refrain from adopting poor sanitation facilities, due to which the state of insanitation conditions remains the same.

To maintain sanitation, apart from government policies, active participation of people is also necessary. There is a lack of overall participation and role of the community in sanitation sector.

1.2 REVIEW OF LITERATURE

Squatting with dignity: new book on rural sanitation in India, by **Kumar Alok (2010)**⁴⁴ The book provides an analytical view of the successes and challenges faced while building the rapidly expanding rural sanitation movement in India, with a specific focus on the past decade. It also presents a history of the importance of sanitation and hygiene in ancient India and the development of sanitation policy in modern India. The book covers policymakers, program managers and implementers, and outlines a vision for the future of sanitation programs in India. It also presents innovative ideas to launch the second generation of cleanliness initiatives, which will be relevant not only for India but also for many other countries across the world.

The book, **The Politics of Sanitation in India**, by **Susan Chaplin (2011)**,⁴⁵ examines how the environmental problems confronting Indian cities have arisen and subsequently forced millions of people to live in illegal settlements that lack adequate sanitation and other basic urban services. This has occurred because of two factors. The first is the legacy of the colonial city characterised by inequitable access to

⁴⁴ Kumar Alok, *Squatting with Dignity: Lessons from India*, (Sage India, 1st edn., 2010)

⁴⁵ Susan E. Chaplin, *The Politics of Sanitation in India: Cities, Services, and the State* (Orient Blackswan Private Limited, vol.2, 2011)

sanitation services, a failure to manage urban growth and the proliferation of slums, and the inadequate funding of urban governments. The second is the nature of the post-colonial state, which, instead of being an instrument for socio-economic change, has been dominated by coalitions of interests accommodated by the use of public funds to provide private goods. The result is that the middle class has been able to monopolise what sanitation services the state has provided because the urban poor, despite their political participation, have not been able to exert sufficient pressure to force governments to effectively implement policies designed to improve their living conditions. The consequence is that public health and environmental policies have frequently become exercises in crisis intervention instead of being preventive measures which benefit the health and well-being of the whole urban population. These issues are explored by studying the history of colonial and post-independence urban development and management in Ahmedabad, Chennai, Delhi, Kolkata and Mumbai, and analysing why these cities have failed to provide equitable access to sanitation services for all residents.

Water Supply & Sanitary Engineering, by **G S birdie and J S birdie (2014)**,⁴⁶ contains extract of the water supply schemes. The most important thing under the water supply schemes is selecting sources of water, which should be reliable and have minimum impurities. After selecting a source of water, the next step is to construct intake works to collect it and carry it up to treatment plants. At the treatment plants, the water will be treated. Types of treatment processes directly depend on the impurities in the water at the source and the quality of water required by the consumers. The government of India has passed independent legislation on water pollution and air pollution. It has become mandatory for the industry to take clearance from their area of Pollution Control Boards before setting new industries. Industrialists must treat all types of effluents (gases, solid and semi-solid). The state has implemented various enactments to prevent pollution, with the central government attempting to add most of these acts to water supply and sanitation engineering.

⁴⁶G S birdie and J S birdie, *Water Supply & Sanitary Engineering* (Dhanpat Rai Publishing Company, 9th edn., 2014)

Rural Sanitation in India: Compendium of case studies, by **Alok Kumar and A. P. Singh (2014)**.⁴⁷ This book tried to capture case studies from different states of the country, covering various aspects of a sanitation program, so that the district and state officials can draw lessons and improve the program implementation in their districts. They have tried to discuss the key issues and strategies to overcome challenges citing the actual case of the district/ state. The book highlights vital learning elements from these case studies, which can be used by others in the sanitation sector as well as other social development programs. The book also offers them the opportunity to learn from the existing experiences in the field and make necessary programmatic improvements.

Sociology of Sanitation: Environmental Sanitation, Public Health and Social Deprivation, by **Dr. Bindeshwar Pathak (2015)**,⁴⁸ is based on the National Conference on “Sociology of Sanitation”: Environmental Sanitation, Public Health, and Social Deprivation Sulabh International Social Service Organisation held in January 2013, in New Delhi. The objective of this National Conference was to have a comprehensive dialogue with academia, administrators, technocrats, and civil society to conceptualize the complex social and environmental issues and to undertake an incisive perspective on futuristic goals and paradigms. This conference was held to set up the road map for future strategy and interventions and add to the corpus of knowledge and research on “Sociology of Sanitation.”

Sanitation in India: A Historico-Sociological Survey, by **Hetukar Jha (2015)**,⁴⁹ The book deals with why sanitation is appropriate, somewhat necessary for this issue to be duly considered a field of historio-sociological studies in Indian academia. Further, it discusses sanitation habits and practices, which prevailed in different periods of our history. Besides, an attempt has been made to examine the socio-political and cultural conditions that forged and promoted some communities' association with the tasks of sewage disposal, cleaning streets, etc.

⁴⁷Alok Kumar and A.P. Singh, *Rural Sanitation in India: Compendium of Case Studies* (Concept Publishing Company Pvt. Ltd., 2014)

⁴⁸Bindeshwar Pathak, *Sociology of Sanitation* (Kalpaz Publications, 1st edn., 2015)

⁴⁹Hetukar Jha, *Sanitation in India: A Historico-Sociological Survey* (Kalpaz Publications, 1st edn., 2015)

Another book, **Environmental Sanitation** by **D.K. Thakur (2015)**⁵⁰ discuss about the Water and Sanitation, Household Sanitation, Rural and Urban Sanitation, Solid Waste Management, School Sanitation, Concept of Environmental Sanitation and Flood.

Sanitation Law and Policy in India: An Introduction to Basic Instruments, Edited by **Philippe Cullet and Lovleen Bhullar (2015)**,⁵¹ this book contains the most comprehensive work on India's sanitation law. It provides an overview of the existing legal and policy instruments related to sanitation in India and fills the existing gap, both in knowledge and policy instruments, defining sanitation in India. This book also highlights the importance, complexity, and fragmented nature of the legal and policy frameworks that inform the sanitation sector and lays special emphasis on the legal dimensions of sanitation in India.

The book, **Sanitation in India with Focus on Toilets and Disposal of Human Excreta** by **Leela Visaria (2016)**⁵² deals with only one factor in some depth, i.e., the availability of toilets and the disposal of human excreta by building toilets. It discusses the availability of toilet facilities in households in India and examines the differences between households having toilet facilities and other areas with available information. Further, it deals with the health impact of improper disposal of or handling of human excreta, especially that of young children. Next, it examined the sociological, cultural and economic factors hindering the use of toilets and the consequences of open defecation especially on women. The book discusses the role of caste and efforts to restore human dignity among and rights of the scavenging community and it also gives a brief discussion on the design of individual toilets and community complexes such that the need to handle excreta by humans is eliminated. The book raises some questions for further reflection and research.

Clean up Your Act: the State of Sanitation in India, by **Sushmita Sengupta (2016) (E-Book)**⁵³ this book contains and comments on the well-designed community-centric programs, its communication, and awareness campaigns

⁵⁰D.K. Thakur, *Environmental Sanitation* (Discovery publishing house, 2015)

⁵¹Philippe Cullet and Lovleen Bhullar, *Sanitation Law and Policy in India: An Introduction to Basic Instruments* (Oxford University Press; 1st Edn., 2015)

⁵² Leela Visaria, *Sanitation in India with Focus on Toilets and Disposal of Human Excreta* (Gyan Publishing House 1st edn., 2016)

⁵³Sushmita Sengupta, *Clean up Your Act: The State of Sanitation in India* (Centre for Science and Environment, 2016)

connecting with toilets and sanitation to health and women's dignity. The Ensuring basic sanitation for all types of people is a major task for the Government of India. The book highlighted the data from the National Sample Survey Office, which shows the pathetic state of sanitation in the country, especially in rural India where two-thirds of the country lives. Also, huge discrepancies in toilet statistics across various government departments mean that it is difficult to assess the impact of sanitation programs.

The Right to Sanitation in India: Critical Perspective, by **Philippe Cullet, Sujith Koonan, and Lovleen Bhullar (2019)**,⁵⁴ this book represents the conceptual background of the right to sanitation and its multiple dimensions in India, as well as its broader comparative setting. It critically analyses the contributions of the law and policy framework to the realization of the right in India. The book also represents the first effort to conceptually engaged with the right to sanitation and its multiple dimensions in India. It critically analyses the contributions of the law and policy framework to the realization of the right in India, including various policies related to sanitation and the role of Swachh Bharat Mission, institutional aspects, initiative to foster community participation, infrastructure dimensions, wastewater treatment and re-use, manual scavenging and right to sanitation workers, and gender dimensions.

A book by **Ankur Bisen**, entitled, **Wasted: The Messy Story of Sanitation in India, A Manifesto for Change (2019)** discusses the need for immediate attention to sanitation and cleanliness. This book takes an honest look into India's perpetual struggle with these issues and suggests measures to overcome them. Legislative and governance loopholes and the increasing height of open landfills, the informality of waste management methods, and the poor health of Indian rivers, soil, and air, ruin the relationship between urban planning and dirty cities in India. The book seeks to address the current entrenched problems of urban planning, governance, law, and institutional and human capacity building. This book further explains how these solutions can lead us towards a brighter future and better social development with sanitation.

⁵⁴Philippe Cullet, Sujith Koonan, *et al.* (edt.), *The Right to Sanitation in India: Critical Perspective* (Oxford University Press, 1st edn., 2019)

In the article, **The Human Right of Sanitation for All: A Study of India**,⁵⁵ **Rebecca M. Coleman**, discussed the importance of access to adequate sanitation facilities in India and how India has responded to the need for sanitation. The article further evaluate that why India's various programs and policies have failed to significantly improve the sanitation situation. At the end, the article concludes with a discussion of key recommendations to combat inadequate sanitation.

Policy as Law: Lessons from Sanitation Interventions in Rural India by **Philippe Cullet**.⁵⁶ This article discusses that the launch of the Swachh Bharat Mission is welcome in the context of addressing a serious and real issue, i.e., lack of access to sanitation and the right to sanitation. Laws and policy frameworks have been progressively developed to address various issues of sanitation in India. Yet, no law addresses sanitation comprehensively or seeks to give a holistic direction to the sector. Further, the states, which have the regulatory capacity in this area, were found not to be proactive enough. Still, an analysis of sanitation interventions in practice shows that a network of practices has developed around the administrative directions related to sanitation. It further explain that the policy framework is essentially a self-sustaining framework that is not articulated around case law or law. This can easily be explained as an attempt by the executive to fill the gap and as an attempt by the central government where the states are ashamed to act despite having the constitutional prerogative to do so. Thus, this scenario needs to be considered.

An article, **The Human Right to Water and Sanitation: A New Perspective for Public Policies** by **Colin Brown**⁵⁷ presents a formal definition of the right to sanitation with a base in human rights regulation. It attempts to communicate with the various current perspectives regarding the impact of its international recognition as a human right. Because, while the human right to water and sanitation (HRtWS) was recognized by members of the United Nations State in 2010, its creation constituted a concept that was not approached and correctly interpreted in an agreed-upon manner by all relevant stakeholders. It then explains the progressive development of HRTWS

⁵⁵Rebecca M. Coleman, 'The Human Right of Sanitation for All: A Study of India', 24, *Pac. McGeorge Global Bus. & Dev. L.J.*, p.294 (2011)

⁵⁶ Philippe Cullet, *Policy As Law: Lessons From Sanitation Interventions in Rural India*, vol.54, *Stanford Journal of International Law*, pp.241-258 (2018)

⁵⁷ C. Brown *et al.*, *The Human Right to Water and Sanitation: A New Perspective for Public Policies*, vol. 21(3), *iência & Saúde Coletiva*, pp.661-670 (2016)

in law and jurisprudence. Finally, it considers the urgency and challenge of monitoring HRTWS and discusses the important implications for public policies.

An article, **Swachh Bharat Abhiyan and the Indian Media**, by **Pitabas Pradhan**,⁵⁸ discuss about the ability of the media to create widespread awareness about cleanliness and its benefits and to provide the right environment for behaviour modification. Of course, interpersonal communication is more effective at changing the behaviour of the target population to prevent them from becoming vulnerable to infections caused by a lack of sanitation facilities. Mass media can make any topic popular, fashionable or noticeable. Further, the article analyses the role of the media as a key player in the Swachh Bharat campaign, in taking the message to the people, and impact of the campaign on the public attitude towards cleanliness. The campaign has been visualised as a mass movement to make India clean by 2019.

1.3 OBJECTIVES OF THE STUDY

The research study has the following objectives:

1. To understand the meaning and concept of the right to sanitation and its relation with human rights.
2. To analyse the problem of sanitation in India.
3. To examine the right to sanitation in the various international legal framework.
4. To study the linkage of sanitation with fundamental rights under the Constitution of India.
5. To examine the role of the judiciary in the recognition and interpretation of the right to sanitation.
6. To study the national laws and policies related to sanitation initiated by the Government to realize the right to sanitation.
7. To examine the role of NGOs/Civil societies in the promotion of sanitation.

1.4 HYPOTHESIS

1. Poor sanitation, directly and indirectly, affects the environment, health, and human dignity of a person.

⁵⁸Pitabas Pradhan, *Swachh Bharat Abhiyan and the Indian Media*, vol. 5(3) *Journal of Content, Community & Communication*, pp.43-51 (2017)

2. There is an absence of specific legislation related to sanitation in India.
3. Indian judiciary has played a significant role in the interpretation of the right to sanitation.
4. Ineffective implementation of government policies and programs related to sanitation has impeded the realization of the right to sanitation.
5. Lack of administrative responsibility of local bodies towards sanitation hinders the effective implementation of sanitation policies and programs.
6. Civil Society initiatives towards sanitation are essential for raising awareness and transforming public behaviour about sanitation practices.

1.5 RESEARCH METHODOLOGY

The proposed research work is based upon the doctrinal and non-doctrinal methods. Analytical, descriptive, and empirical research methodology has been adopted for the research work. The literature and other related materials have been collected from primary and secondary sources, such as, statutes, books, legal journals, Supreme Court judgments, government policies, government reports, newspapers, magazines, websites, and published statistics. Data for empirical study has been collected through questionnaires/Schedules and interviews. The researcher has prepared two questionnaires schedules; one for assessing the public sanitation awareness and sanitation behaviour of household beneficiaries. The other open and close-ended questionnaires and schedule are formulated for examining the Administrative responses of urban local government bodies responsible for sanitation-related functioning i.e. Lucknow Nagar Nigam.

1.6 UNIVERSE OF STUDY

For the empirical study, Lucknow city has been taken as a unit of study. The information has been collected from the households through a simple random sample survey method from the eight zones of Lucknow city. The required information and data have been collected from the 500 households for analysing their social behaviour. The whole data has been analysed by applying the Statistical Package for Social Sciences (SPSS) software and interpretation are done for testing the hypothesis and conclusion have been drawn from the findings of the empirical study.

1.7 SCOPE OF STUDY

The scope of the present study is focused on the all (Eight) zones of Lucknow city. This research study is limited to the urban areas of Lucknow for the purpose of collecting data, which is depending upon the availability of the respondent and the accessibility of researcher. The household units of the families has been randomly selected for data collection from different zones. Data collection for the research study was remained restricted due to Covid-19 lockdown.

1.8 TENTATIVE CHAPTERIZATION OF THESIS

The entire study has divided into the following eight chapters:

Chapter I – Introduction

Chapter II – Historical Development and Evolution of the Right to Sanitation

Chapter III – Right to Sanitation under the International Legal Framework

Chapter IV – Laws and Policies Related to Sanitation and Role of Indian
Judiciary.

Chapter V – Role of Civil Society and Public Responsibility in Sanitation

Chapter VI – A Study of Administrative Responses and Public Awareness about
sanitation in Lucknow City.

Chapter VII – Conclusion and Suggestions.

1.9 PLAN OF STUDY

Chapter I comprises general introduction of research work and outline of research problem. It further includes objectives, hypothesis, research methodology and brief description of every chapter.

Chapter II, i.e., Historical Development and Evolution of the Right to Sanitation deals with the historical development and evolution of the right to sanitation in India. The purpose of this chapter is to examine the historical development of the sanitation conditions in the ancient, medieval, and modern eras. The study shows that, in ancient times, the Indus Valley Civilization showed early

evidence of public water supply and sanitation and included many advanced features of sanitation facilities. Cities of this civilization were built according to highly sophisticated planning. It also shows that the Harapan people had a very high civic sense of health and sanitation.

With the onset of colonial rule, sanitation ceased to be a national priority. After independence also, most Indians did not have access to basic facilities because governments continued to follow colonial urban planning practices. The researcher also analyzed how the Indian government has gradually made the sanitation issue a national priority by introducing several sanitation policies for both urban and rural areas of the country.

Chapter III deals with the **Right to Sanitation under the International Legal Framework**. The researcher has analysed brief provisions of various international legal frameworks that deal with the right to sanitation. This chapter also briefly describes the journey of sanitation to become a human right under the international legal framework. This chapter further shows how the effort to recognize a separate sanitation right began with the initiative of the UN Special Envoy on the Human Rights to Drinking Water and Sanitation (Catrina de Albuquerque). The Special Rapporteur argued that sanitation is a separate right due to its specific dignity dimensions, so it should be considered an individual right. Many international human rights treaties have recognized the importance of water and sanitation (separately or together) in the realization of human rights, however, they did not explicitly include the right to sanitation. Finally, In July 2010, the United Nations General Assembly, for the first time, formally recognized the right to water and sanitation as a human right. The Resolution called upon the States to provide **sufficient, safe, acceptable, physically accessible, and affordable** drinking water and sanitation for all. Again, in 2015, sanitation was recognized in a consensus vote by the General Assembly as a distinct and separate human right.

This chapter further analysed the India's efforts in the development of the right to sanitation in India. In 2010, India reaffirmed its commitment by voting in favour of a specific UN resolution and explicitly recognizing the right to sanitation. Moreover, the Government of India has consistently expressed its commitment towards a right to sanitation in SACOSAN conferences.

Chapter IV, i.e., Laws and Policies Related to Sanitation and Role of Indian Judiciary, deals with the law and policy framework governing sanitation interventions consists of constitutional provisions, statutes and schemes, programs, administrative direction, etc. the chapter is divided into four parts.

The first part of the chapter provides the constitutional provisions regarding sanitation because primarily, the legal basis for the right to sanitation can be found in the Constitution of India. However, it does not recognize the right to sanitation explicitly but indirectly in different forms. The researcher analysed that the right to sanitation has been included in the Constitution of India in two different ways. First, Article 17 which is associated with the practice of manual scavenging and also an integral part of sanitation. Second, the higher judiciary (Supreme Court and High Court), which has recognized the right to sanitation as a fundamental right under Article 21 in various instances. The concept of the right to sanitation is also included in the Directive Principles of State Policy and Fundamental Duties. Because, this is not only the duty of the State but also the duty of every citizen to maintain a hygienic environment. The duty to provide sanitation facilities was further decentralized by the Constitution and give power to the Rural/ Urban Local Bodies to regulate sanitation in local level.

The second part of the chapter includes multiple of legal instruments, addressing some parts of the sanitation sector with a narrow understanding of sanitation. The third part deals with the judicial pronouncement of the higher judiciary (Supreme Court and High Courts) related to sanitation facilities. And the fourth part provides the administration directions and policies related to sanitation. The researcher analysed that there is no direct legislation related to the right to sanitation in India, (Centre and State) to cover all dimensions of sanitation. This gap in the legal framework related to sanitation has been filled by government policies.

Chapter V, i.e., the Role of Civil Society and Public Responsibility in Sanitation, indicates that sanitation is a subject that needs to be focused on by everyone, including the private sector, the civil society organizations (CSOs), communities, and individuals, along with the government. The researcher analysed the role of various social reformers who have started the sanitation movement. Further, Non-Governmental Organizations play a vital role in making people aware of their civic rights and duties under the sanitation sector. For which they need improved

capacities and appropriate technologies. The private sector has also been given responsibilities related to sanitation under the Companies Act, which prescribes mandatory provisions for Companies to fulfil their Corporate Social Responsibility (CSR). Moreover, the media (television, radio, print media, internet, and email) can play a proactive role in spreading information and raising awareness to help change attitudes and behaviours among the general public towards sanitation practices across India.

Further, the chapter provides various non-sanitation Ministries/Departments who have developed several special projects with measurable outcomes to help the Union Ministries to build swachhata into their schemes and policies. The researcher also analysed some monitoring programs related to sanitation, such as, Swachh Sarvekshan, Swachhata Pakhwada, Garbage-Free City Stars, and Swachhata Action Plan which measures sanitation outcomes in India.

Chapter VI, i.e., A Study of Administrative Responses and Public Awareness about sanitation in Lucknow City, contains the information about the study area, data analysis, data interpretation, and findings. The purpose of this chapter is to know the actual status of sanitation facilities, provided in the city. For the empirical study, Lucknow city has been taken as a unit of study. The information has been collected from the households through a simple random survey method from the eight zones of Lucknow city to understand the nature of problems related to sanitation facilities. The required information and data have been collected from the 500 households. The aim of the survey is to examine the behaviour and awareness of the people towards sanitation and cleanliness. The whole data has been analysed by applying the Statistical Package for Social Sciences (SPSS) software and interpretation and conclusion have been drawn from the findings of the empirical study.

The researcher also intended to know the sanitation situation in the city by approaching the officials of LMC. It is found that officials were reluctant to provide adequate information to the researcher. They often refer to LMC websites for the responses to the queries asked by the researcher. The researcher through RTI could collect very little information.

Chapter VII, i.e., Conclusion and Suggestions. The chapter gave some conclusions by the researcher after analysing various international legal instruments, national legislative frameworks, policies, and various judgments given by Indian courts. Apart from this, the researcher also suggests some suggestions to make the sanitation system more effective.

HISTORICAL BACKGROUND AND EVOLUTION OF THE RIGHT TO SANITATION IN INDIA

“Clean water and sanitation are not only about hygiene and diseases, they are about dignity too. Everyone and that means all the people in the world, has the right to a healthy life and a life with dignity. In other words, everyone has the right to sanitation.”

- Prince Willem Alexander¹

Poor sanitation promotes poor health, degrades the quality of the environment, and, thus, worsens the quality of life in a community. Maintaining a clean environment is an integral part of civilized living. Yet, billions of people lives without access to the most basic sanitation facilities.² A safe sanitation system is a system that is designed and used to separate human excreta from human contact at all steps of the sanitation service chain, from toilet capture and containment, through emptying, transport, treatment (in-situ/off-site), and final disposal. Safe sanitation systems must meet these requirements in a manner consistent with human rights while also addressing the co-disposal of greywater, associated hygiene practices, and essential services required for the functioning of technologies.³ More broadly, sanitation also included the safe management of solid waste and animal waste. Hence it is not merely the absence of disease or infirmity but a state of our complete physical and mental well-being.

¹ Prince of the Netherlands, Chair of the UN Secretary-General Advisory Board on Water and Sanitation 2007, p.1. Available on: <https://www.un.org/fr/events/sanitation/PrinceWillemAlexander.pdf> (visited on: March 25, 2016)

² Guidelines on sanitation and health, World Health Organisation, Geneva, 2018. Available at: <https://apps.who.int/iris/bitstream/handle/10665/274939/9789241514705-eng.pdf> (visited on: August 03, 2020)

³WHO/UNICEF Joint Monitoring Program (JMP), WASH in the 2030 Agenda: New Indicators for water, sanitation and hygiene (2017).

An inadequate sanitation system is present in almost all parts of the world. Cities are struggling to cope with the scale of sanitation needs due to rapid urbanization, and rural areas are battling with insanitation due to less access to sanitation facilities.⁴ The current sanitation crisis refers to the lives and livelihood of billions of people, yet it remained one of the most neglected issues at the international and national levels.⁵

India is among the various countries struggling to improve this basic necessity. The taboo around sanitation in India is one of the biggest barriers to access to sanitation. Despite the seriousness of the issue, our community is still reluctant to open up about the topic of sanitation and the good practices surrounding it. Also, people do not like to talk about sanitation because they consider it a matter of utmost privacy. The ill-effects of this taboo can be clearly seen in the continued unhealthy sanitation practices as it is estimated that 1.1 billion people still defecate in the open, causing diseases such as diarrhoea, cholera, dysentery, typhoid and hepatitis-A.⁶ The problem of sanitation is multi-dimensional. In the Indian context, improved sanitation facilities also prevent the degrading and inhuman age-old practice of manually removing waste/excreta by scavengers.⁷

Indian society has often given high priority to sanitation in ancient times. Attention to sanitation and hygienic practices were defined as important priorities in the Vedic scriptures. This philosophy and focus on better sanitation practices continued even during the reign of various dynasties, such as the Mauryas, the Guptas, the southern kingdoms of Vijayanagar, etc. But with the onset of the colonial role, sanitation ceased to be a national priority. Much of India's sanitation problems can be traced back to the country's colonial past. Not only was the British administration indifferent to the sanitation of the Indian people during the colonial period, but this administrative apathy towards sanitation continued for decades after

⁴ Guidelines on sanitation and health, World Health Organisation, Geneva, 2018. Available at: <https://apps.who.int/iris/bitstream/handle/10665/274939/9789241514705-eng.pdf> (visited on: August 03, 2020)

⁵*Ibid.*

⁶Anurodh Lalit Jain, Breaking the sanitation taboo, *The Hindu*, July 11, 2016

⁷ Bindeshwar Pathak, *Continuity and change in Indian society* (Concept Publishing Company, New Delhi, 1998)

independence. By 1947, the Indian population, which was more than 30 crores, had less than 1% sanitation coverage, and this statistic did not improve for a long time.⁸

However, the Indian government also took several measures in hopes of a return to the days of the ancient Indus Valley Civilization, when sanitation systems were far more advanced than contemporary urban sites.⁹ The law and policy framework concerning sanitation comprising instruments interspersed in different areas of law and policy. These include constitutional provisions, legislation, judgments, and different administrative orders and policy documents. Nevertheless, India's commitment has proved to be unsuccessful in significantly improving its sanitation crisis. The reason for the failure to prioritize sanitation is the lack of adequate legal provisions, national policies, diverse and fragmented responsibilities for sanitation in government ministries, and a general lack of understanding of the positive impact of investment in sanitation. These hurdles can make sanitation far from satisfactory in its effective implementation. Although the government either central or state and local bodies have the responsibility to solve the sanitation problems by various ways and means, yet, every person has also the responsibility to cooperate in keeping the sanitation.¹⁰

2.1 HISTORICAL BACKGROUND OF SANITATION

2.1.1 Sanitation in Ancient Era

Humans had spent the initial stage of their lives as hunting but later on, during the last 9000 to 10,000 years, they discovered how to grow crops and tame animals. This agricultural revolution probably first took place in the hills to the north of Mesopotamia. From there, it spread to south Hellas, Sicily, and the rest of Europe and the east (e.g. Indus Valley). During the Neolithic age (ca. 5700–3200 BC), the first successful efforts to control the flow of water were driven (such as dams and irrigation systems) due to the need for food. Major human settlements were initially

⁸Saptarshi Dutta, 'India@70: A Brief Colonial History of Sanitation in India,' *NDTV*, August 11, 2017. Available at: <https://swachhindia.ndtv.com/india70-a-brief-colonial-history-of-sanitation-in-india-10602/> (visited on: May 10, 2018)

⁹*ibid*

¹⁰Gopi Karelia, 'Government to Celebrate 'Khule Mein Shauch Se Azaadi' Week to Mark 70th Year of Independence,' *NDTV*, August 9, 2017. Available at: <https://swachhindia.ndtv.com/government-celebrate-khule-mein-shauch-se-azaadi-week-mark-70th-year-independence-10585/> (visited on: May 10, 2018)

developed only where fresh surface water was found in abundances, such as near rivers or natural springs. Throughout history, people have devised systems to get water into their communities and households and to dispose (and later also treat) wastewater. At that time, sewage was treated by flushing raw sewage into a natural body of water, such as a river or ocean, where it could be easily diluted and destroyed.¹¹

Sanitation practice is not a new science, rather it is a legacy of thousands of years of real experience and application. Since the beginning of civilization, supplying water and providing sanitation to people has been a big challenge. The Indus Valley Civilization in Asia shows early evidence of public water supply and sanitation. The system that Sindhu developed and managed included many advanced sanitation facilities. Ancient civilizations like the one in Indus Valley were also known priorities sanitation, as remnants of toilets have been found in the historical sites. A typical example is the Indus city of Lothal. In Lothal, all households had their private toilets, combined with a gypsum-based mortar connected to a covered sewer network of brickwork that was regularly emptied and cleaned in surrounding water bodies or cesspits.¹²

The cities of Harappa and Mohen-jo-daro show earliest evidence of the world's first urban sanitation system. The city was built according to a highly sophisticated planning.¹³ The advanced architecture of the Harappans is shown by their impressive dockyards, granaries, warehouses, brick platforms and protective walls.¹⁴ The most striking feature of this Harappan civilization (Indus Valley Civilization) was that, people had constructed their drainage system on very scientific manners. The most unique aspect was the system of underground drainage.¹⁵

¹¹ Farnsworth Gray, Sewerage in Ancient and Mediaeval Times, vol.12(5), *Sewage Works Journal*, pp.939-46 (1940)

¹² Saifullah Khan, Sanitation and wastewater technologies in Harappa/Indus valley civilization (ca. 2600-1900 BC) (2015). Available at: https://www.academia.edu/5937322/Chapter_2_Sanitation_and_wastewater_technologies_in_Harappa_Indus_valley_civilization_ca_26001900_BC (visited on: April 30, 2019).

¹³ India's Toilet Tradition. Available at: <https://sites.google.com/site/waterexcreta/> (visited on: May 10, 2018).

¹⁴ Available at: http://www.suramya.com/india/india_history.php (visited on: May 10, 2018).

¹⁵ Available at: <https://www.harappa.com/category/slide-subject/sanitation> (visited on: May 12, 2018).



Source: www.harappa.com

Figure 2.1: Drainage System in Lothal

House drains emptied themselves into the main drains which ran under the main streets and below many lanes. The Harappan people well knew that such drains were not to be left open. The drainage system and drains were covered with bricks or stones and were provided with inspection traps and main holes at regular intervals for inspection. Every care was taken that the house-wives did not throw refuse or dirt in the drains. Every house had its own soak-pit which collected all the sediments and allowed only the water to flow into the street drain. The elaborate drainage system of the Harappan people shows that they had developed a high sense of health and sanitation.¹⁶ The drainage system of Mohen-jo-daro was so elaborated that like of which has not yet been found anywhere in the world in any other city of the same antiquity.¹⁷ The excavation in the Harappa area has shown a highly developed drainage system where waste sewer drain pipe of each house went into the main sewer drain pipe passing under each house.¹⁸

The archaeological pieces of evidence, found at Mohan-jo-daro and Harappa, revealed the existence of a highly evolved urban civilization that flourished in India during the period between 4000 BC and 3500 BC. The Indus valley civilization was basically an urban civilization and the people lived in well-planned and well-built

¹⁶ Mayank Kulkarni, 'Drainage System of Harappan Civilization (Indus Valley), 2013. Available at <https://www.importantindia.com/8962/drainage-system-of-harappan-civilization> (visited on: May 16, 2018)

¹⁷*ibid*

¹⁸ Available at: <https://www.harappa.com/category/slide-subject/sanitation> (visited on: May 12, 2018)

towns, which were also the centers for trade.¹⁹ The custodians of this great urban civilization lived in multistoried buildings made of baked bricks. They had a very high civic sense.²⁰

When man was not civilized and lived in forests and caves, sanitation was not even a viable concept. In such a case, open defecation was not merely an option but, it was a compulsion. In the absence of proper toilet facilities, people necessarily had to defecate and urinate wherever they could. Defecating on the road, open spaces, or just easing themselves in the river was very common. The third millennium BC was the “Age of Cleanliness.” Toilets and sewers were invented in several parts of the world, and Moen-Jo-Daro had some of the most advanced, with lavatories built into the outer walls of houses. These were primitive “Western-style” toilets made from bricks with wooden seats on top. They had vertical chutes, through which waste fell into street drains or cesspits.²¹



Source: www.harappa.com

Figure 2.2: Drain Exiting in Great Bath

¹⁹ P. Pushpangadan, Jyoti Sharma and Jeet Kaur, *Environmental Health and Hygiene in Ancient India: An Appraisal*, *Ancient Science of Life*, pp.1-5 (1987).

²⁰ *ibid*

²¹ B. Pathak, *History of Toilets*, International Symposium on Public Toilets, Hong Kong (1995).

The toilets at Moen-Jo-Daro, built about 2600 BC, were only used by the affluent classes. Most people would have squatted over old pots set into the ground or used open pits. The people of the Indus Valley Civilization in Pakistan and north-western India had primitive water-cleaning toilets that used flowing water in each house that were linked with drains covered with burnt clay bricks. The flowing water removed the human wastes.²²

The toilet culture never recovered in Indus Valley Civilization but there are two cesspits in Harappan region where excavations are with a brick-drain. There are series of brick-steps on one side so that a man could climb down to clear away the solid sediment. Toilets would have been an essential feature in Mohen-Jo-Daro, but the early excavators identified most toilets as post-cremation burial urns or sump pots. This brick structure had a hole in the top that was connected to a small drain leading out of the base into a rectangular basin (not reconstructed). Early excavators suggested that structure with a hole and drain located are thought to have been toilets.²³



Source: www.harappa.com

Figure 2.3: Western-styled toilets made from bricks in Moen-Jo-Daro

²² Saifullah Khan, 'Sanitation and wastewater technologies in Harappa/Indus valley civilization (ca. 2600-1900 BC).' Available at- https://www.academia.edu/5937322/Chapter_2_Sanitation_and_wastewater_technologies_in_Harappa_Indus_valley_civilization_ca._26001900_BC (visited on: April 30,2019)

²³ Available at- https://www.academia.edu/5937322/Chapter_2_Sanitation_and_wastewater_technologies_in_Harappa_Indus_valley_civilization_ca._26001900_BC (visited on: April 30,2019)

For the human urinate, they may have used a hole in the ground at open places that connected to nearby drain. The characteristic feature of these cities (Harappa and Mohen-jo-daro) was wide streets and lanes with underground drainage, though water discharged from smaller drains coming out of the houses or by-lanes was collected into cesspools, built either entirely of masonry or with earthenware jars.²⁴



Source: www.harappa.com

Figure 2.4: Toilets (Latrines)

The main sewer, 1.5 meters deep and 91 cm across, connected to many north-south and east-west sewers. It was made from bricks smoothed and joined together seamlessly. The expert masonry kept the sewer watertight.²⁵ At Harappa, drains from bathrooms, courtyards and other parts of the houses were quite common. At Mohen-jo-daro, earthenware drain-pipes have also been found.²⁶ A blurb in Sulabh International’s manual on ‘The History of Toilets’ says: “Excavations in Harappa and Mohen-jo-daro revealed a highly developed drainage system where waste water from bathrooms as well as toilets in each house flowed into the main sewer through a drain

²⁴M. Jansen, Water supply and sewage disposal at Mohenjo-Daro, vol. 21(2), *World Archaeology*, pp.177–192 (1989).

²⁵ Manish Jain Luhadia, Drainage system of Indus Valley Civilization (2019). Available at: <https://frontdesk.co.in/forum/Thread-Drainage-system-of-Indus-Valley-Civilization?pid=1752>

²⁶ India's Toilet Tradition. Available at: <https://sites.google.com/site/waterexcreta/> (visited on: May 10, 2018)

pipe passing under each house.” The Harappans had an advanced sanitation engineering system. And building toilets in every home was standard operating procedure during the Harappan times.²⁷

Dholavira is a Harappan site located in the Rann of Kutch, Gujarat. The significance of this site was for its incredible water management system and hydraulic engineering that contains at least 16 reservoirs and an elaborate systems of drains and sewers. In the citadel area there is an intricate network of storm water drains, all connected to an arterial one and furnished with slopes, steps, cascades, manholes (air ducts/water relief ducts), paved flooring and capstones. The main drains were high enough for a tall man to walk through easily. The rainwater collected through these drains was stored in yet another reservoir that was carved out in the western half of the citadel. Altogether the reservoirs have an area of about 10 hectares, or 10 percent of the area within the walls. This fabulous system made it possible for the Dholavirans to thrive in their desert home.²⁸



Source: www.harappa.com

Figure 2.5: Bathing area in Mohen-jo-daro

²⁷Neha Khator, The stink from India’s past, *The Hindu*, June 2017.

²⁸ R. S. Bisht, Dholavira and Banawali : Two different paradigms of the Harappan Urbis forma, *Puratattva* No. 29, 1998-99.

The Indus people were fully aware of the principles of health and sanitation. Almost every house unit at Mohen-jo-daro was equipped with a private bathing area with drains to take the dirty water out into a larger drain that emptied into a sewage drain. Towns people bathed in a bath, located in the centre of the quadrangle in the middle of the valley. The Baths were around 49 feet long, 28 feet wide and 8 feet deep. Walls of the pool were made up of burnt brick to prevent the leaking of water. The pool was regularly drained to ensure cleanliness, this was done by draining off used water into a large pipe that led to the outside of the valley. This building reflects the engineering genius of those in ancient days.²⁹

Most of the households of Indus valley had access to a bathroom and toilet that was connected to the drainage systems. Water waste was directed to covered drains that outlined main streets which were seen as unique and sophisticated for the time. If houses had bathroom's or drainage systems upstairs terracotta pipes were used to bring waste down on to the streets.³⁰



Source: www.harappa.com

Figure 2.6: Contemporary bathing area in Harappa

²⁹Available at: <https://www.harappa.com/category/slide-subject/sanitation> (visited on: May 12, 2018)

³⁰*ibid*

As bathing was also common and sanitation was valued, people would often bathe standing up by pouring pitches of water on top of themselves like a shower and allowing water to drain into hole onto the floor that Limestone was used to make sure that pipes would not leak and to insure stability. It also offered a new level of health and sanitation to the people. Waste cleaners cleaned the street drains/pipes and emptied the pits/ areas where sewerage waste water from toilets was held.³¹

2.1.2 End of Indus Civilization and Pre-Mauryan Period

A new civilisation which came into existence after the decline of Indus Civilization was Vedic civilisation. The basis of Vedic civilisation was totally different from Indus Civilization as this was rural in nature compared to the urban civilisation of Indus Civilization. Hence, the people of Vedic period lead a simple and some sort of primitive life style. With the decline of the Indus Valley Civilization, the science of sanitary engineering had disappeared from India. Since then, toilets in India remained primitive and open defecation became widespread.³² Many historians believe that with the arrival of the Vedic Aryans, open defecation too entered the Indian psyche. The Aryans were initially nomadic. A wandering tribe would have never settled, built a house, or felt the need to build a toilet. As time passes, they also started developing a civil society infrastructure. Now, they did become aware of personal and community health and hygiene. The Vedic people consider their home as the residing place of God. They use to chant mantras and perform *yajnas* and rituals at their home. Hence, there was no place for excreta in their home. It was found that no toilets were made during the Vedic period.³³ The society was developing day by day, new advancements in the field of agriculture and tool making leads to the second urban revolution in India. The '*Jana*' of the Aryans developed into much powerful '*Mahajanpadas*'. In this period, many palaces were erected but it seems that the toilet practice remained the same as no evidence of toilet has been found in archaeological excavations till now.³⁴

³¹ Available at: <https://www.harappa.com/category/slide-subject/sanitation> (visited on: May 12, 2018)

³² Available at: <https://www.sulabhtoiletmuseum.org/history-of-toilets/> (visited on: April 30, 2019)

³³ Tiwary and Saurabh, Archaeological Evidences of Toilet System in Ancient India, vol. 6, Heritage: Journal of Multidisciplinary Studies in Archaeology, pp.764-781 (2018)

³⁴ *ibid*

Archaeological evidence of toilets in post-Indus India is found in the Gupta period (4th to 7th Century CE). This period is also known as the Golden Age in Indian history, as a completely different and progressive construction of architecture, art, sculpture, literature, and administration flourished in this period.³⁵ The Gupta dynasty and its cities were initially characterized by a haphazard settlement pattern where open defecation was a daily routine. Sanitation eventually became a state concern in Chandragupta Maurya's court, and toilets were built inside the housing unit. Along with this, those who defecate in the open were punished.³⁶ The evidence of a toilet connected to a drain was found in the city of 'Chirand' during the Kushan period. In the Kushan Empire, open defecation was prohibited in the city of *Chirand* (in modern day Bihar).³⁷

As the population began to settle, open defecation as a practice was codified through scriptures such as the Manu Smriti, which laid down rules in which direction to defecate and which hand to use for cleaning. One of the rules in the Manu smriti lays it down: "At least 40 hands distance is to be observed while urinating near a river or temple and defecation should be at least at a distance of 400 hands." No one, however, made building toilets a requirement.³⁸ As a few more centuries passed, open defecation became widespread. And it was only after the arrival of the caravans of the Arab traders and the Mughals that toilets were once again constructed. But this time they made a comeback with a heavy price of "manual scavengers" or "*halalkhors*."³⁹

2.1.3 Sanitation in Mughal Era

From 500 AD to 1500 AD, the dark period of sanitation is considered in the history of human civilization. Protrusions were used for defecation in noble houses and forts throughout India. The excreta was thrown on the ground and in rivers. The Jaisalmer Fort highlights this unique context of the Indian history of toilets and

³⁵Tiwary and Saurabh, Archaeological Evidences of Toilet System in Ancient India, vol. 6, Heritage: Journal of Multidisciplinary Studies in Archaeology, pp.764-781 (2018)

³⁶Mahak Agrawal, Bharat: Swachh for thousands of years, *The federal*, New Delhi, April 18, 2019

³⁷*ibid*

³⁸ Neha Khator, The stink from India's past, *The Hindu*, June 4, 2017.

³⁹ V.B. Hans, *Culture of Sanitation: From Indus Valley Civilisation to Sulabh*, (Rupa Publication, 2021)

defecation.⁴⁰ With the arrival of the Mughals, who ruled for more than 300 years, and the establishment of the Mughal Empire by Babur in 1526, the sanitation situation went from bad to worse. There was a complete lack of social awareness about the values of community sanitation. Rural areas were entirely overlooked. The Mughal emperor Jahangir commissioned the construction of a public toilet to be used by 100 families, 125 km from Delhi, in 1556. But, due to poor maintenance, people were forced to defecate in the open. *Gusalkhana* (bathroom) was established in India in 1556 by the Mughal kings. But it was only for the rich. The rest of the civilians meanwhile eased up on following the rules as given in the scriptures. As a result, ordinary citizens lived in unhygienic conditions.



Source: tajmahal.gov.in

Figure 2.7: A Bathtub of Jahangir, Agra Fort

Emperor Akbar, who ruled from 1556–1605, is to this day remembered for his outstanding skills in organizing of governmental structures for his Empire, which stretched over much of India. To him, sanitation did play an important role, and thus he placed its oversight as a major duty by District Officers (*fowjdar*). During his rule,

⁴⁰ Amazing Facts from Historic Journey of Toilets from Indus Valley Civilization to Modern India. Available at: <https://www.indianeagle.com/travelbeats/history-of-toilets/> (visited on: September 30, 2016)

toilets were found amidst the great halls and harems of royalty. India's heat and dust-stricken kings built luxurious bathing and massage facilities.



Source: www.india.com

Figure 2.8: Toilet in Akbar Fort

The purpose of building toilets in their premises by Arab traders and Mughal emperors was to protect their women from being exposed during defecation. It was believed that with the introduction of the purdah system during the Mughal period, where Muslim women wore the burqa (veil) and were not allowed to go out for defecation. Thus, System of privies was designed and constructed by Muslims for their women in purdah. But, these toilets were dry latrines that required someone else to do the dirty job. The need for manual scavenging was felt to keep the toilets clean. For this, marginalized people, as well as warriors and residents of defeated states, were enslaved by generations of the Mughal administration.⁴¹ As a result, a class of manual scavengers was born in India to clean up the mess of the kings and their queens. Those who were held captive were forced to clean toilets, bucket drains, and throw night soil at distant places. These prisoners were not accepted by society when they were freed, as a result, they formed a separate caste and continued the manual scavenging. Thus, the term 'sweeping and scavenging' took the form of a formal profession in Mughal period. Such a peculiar description of the medieval history of

⁴¹ Swamini Adityananda Saraswati, *Swachhata Sanskriti, From the Historic to the Holy: India's Swachhata Legacy*, p. 29 (Global Interfaith WASH Alliance India, September, 2019)

India only seems to make the Muslims responsible for starting the practice of manual scavenging.⁴²



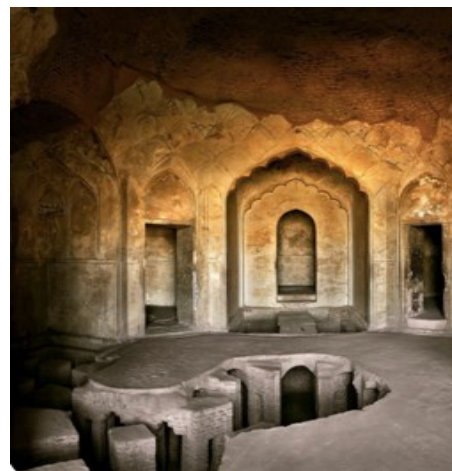
Source: www.india.com

Figure 2.9: Latrines in Red Fort, Agra

The rise of Islam and its rituals of purification, and emphasis on hygiene and cleanliness led to the construction of hammams. During the Mughal period in India, hammams as an individual building were made an integral part of Mughal residences, public buildings, mosques, gardens and architectural complexes by the emperors. Within the hammam complex, toilets and dressing rooms were also provided for the emperor and the harem inmates. It is also important to mention that whether the hammam was attached to a palace or an independent structure, the Mughals had taken care of the basic needs for example, toilets, bathrooms and dressing rooms.⁴³



Figure 2.10: The Royal *Hammam*,
Red Fort, Agra



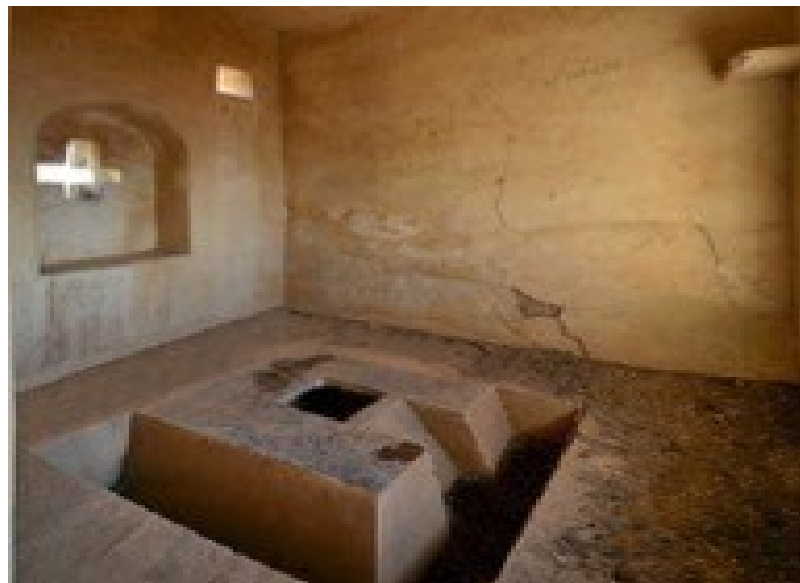
Source: www.india.com

Figure 2.11: The Royal *Hammam*,
Red Fort, Delhi

⁴²Alok Kumar, *Squatting with Dignity: Lessons from India*, p.412 (Sage Publication, New Delhi, 2010)

⁴³Ruchika Arora, Mughal Hammams, *Sahapedia*, May 8, 2018.

In 1569 AD, the Amber fort, located on top of a hill on the outskirts of Jaipur, Rajasthan, had a fine toilet provision to emulate the Mughal forts of Fatehpur Sikri and Agra. Diwan-e-Khas of Amber Fort was exclusively for the king and his harem women, which was once again associated with the Mughal rulers. Due to strict ladies, the king had to provide clean toilet facilities with proper privacy for them. Accordingly, there are three rooms inside the Diwan-e-khas, each having eight holes for defecation. This number shows that no queue was needed even if there were two dozen users. The human waste fell down in equal sized rooms for each hole on the ground. In principle, it is similar to the defecation holes near Harem Sara of the Fatehpur Sikri Fort. An outlet in the back of each above rooms was provided through which the Halalkhors (scavengers) manually collected excreta for disposal at safer places. Bucket privies were in use in the Mughal harems for the sake of purdah, which were cleaned by the slaves. Even during British rule, no efforts were made to create social awareness among the masses against open defecation and its hazardous consequences.⁴⁴



Source: www.india.com

Figure 2.12: Toilet in Amer Fort, Rajasthan

In 1856, an outbreak of cholera, a highly communicable and waterborne disease, occurred in the plains of northern India. Thousands died and many

⁴⁴Mahak Agrawal, 'Bharat: Swachh for thousands of years', *The Federal*, 18 April, 2019. available at: <https://thefederal.com/the-eighth-column/bharat-swacch-for-thousands-of-years/> (visited on June 12, 2019)

unknowingly carried the infection with them to Multan in the west and Madras in the south. Ironically, the epidemic that accelerated the decline of the Mughal Empire due to insanitation began in their old capital, Agra. As civilizations, kingdoms, and empires fell, sanitation infrastructure and the knowledge to maintain it was lost. Populations scattered and changed, and indigenous social awareness on sanitation and hygiene faded.⁴⁵

2.1.4 Sanitation in Modern Era

2.1.4(a) Pre-Independence period

Prior to Colonisation, India fortified and protected its drinking and agricultural water through the wisdom of the ancient Rishis and Indus Valley Civilization. Sanitation was a key priority in India from the ancient times. It was defined as important priorities in Vedic scriptures. With the onset of colonial rule, sanitation ceased to be a national priority. During the colonial period in India, the British called large cities “huge collective privy” because of the defecation by people at all times and in all places.⁴⁶ But, gradually, people started to understand the need for toilets in the country. The modern style flush toilet system in Britain was invented in 1596 by John Harrington. By the 1770s, the British had established themselves as a colonial trading power. Sewerage networks came into existence in Britain in 1850 to address environmental degradation and increasing epidemics due to industrialization.⁴⁷

In 1861, Mr. Crapper was hired to install flush toilets in many of the nation’s royal palaces for the first time. In 1877, sanitation in England had just begun to modernize. At that time, cholera was slowly being recognized in England as a water-borne disease that needed better sanitation to deal with. As England rushed to take care of its own deadly sanitary conditions, it paid little heed to the similar needs of India.⁴⁸ In India, nearly half of the nineteenth century witnessed the total negligence of the public interests including health and sanitation. The poor and immigrants were not only denied proper sanitation, they were also xenophobically blamed as being the sources of disease and contamination themselves. This led to exceptionally-high

⁴⁵ Available at: <https://www.livehistoryindia.com/story/history-daily/epidemic-during-mughals/> (visited on: August 16, 2020)

⁴⁶ Available at: <https://www.sulabhtoiletmuseum.org/history-of-toilets/> (visited on: November 19, 2019)

⁴⁷ Swamini Adityananda Saraswati, *Swachhata Sanskriti, From the Historic to the Holy: India’s Swachhata Legacy*, p. 29 (Global Interfaith WASH Alliance India, September, 2019)

⁴⁸ *ibid*

instances of disease and death in the population. Because of gradual increase in rural poverty under colonial period, rise of urban spaces and population, sanitation lost priority. Despite the population being in manageable numbers, rural sanitation and water supply were issues never taken up by the British administration in India. This disinterest in India's sanitation scenario was a reason, why improving sanitation conditions today is a Herculean task.⁴⁹

The rebellion of 1857-58, the plague epidemic in 1896, and the introduction of British ideas of modern town planning in the early twentieth century greatly influenced urban development, planning and sanitation policies, and the development of municipal government. It was evident that no systematic health programme was started in India until the revolt of 1857. The Revolt of 1857 exposed several aspects to the British government. First, the East India Company's administration ignoring indigenous sensibilities and issues, second, the government's exploitation of the rights of the common people, and third, it also brought the condition of Indian sanitation, health and deceases and the need for military security, before Britishers. After that only, the Government initiated to take interest into the public health and sanitation matters.⁵⁰

Colonial officials were faced with the immediate problem of the health and hygiene of the British troops whose effectiveness had been hindered by the effect of cholera and other epidemics during the revolt. Many European had died from cholera when they were in Lucknow and other town in Northern India. This immediate problem of the health and hygiene of British soldiers led to the beginning of a debate on sanitation among the government in India. The sanitation debate by British officials was largely about a disease that spread in India, which was rampant in cities and towns, threatening the health of people, especially British soldiers. As the problem of "cleaning up" the subcontinent was considered too enormous to be even contemplated, the British sought to alleviate their fears by segregating themselves into residential enclaves away from the indigenous population. The British justified this

⁴⁹Swamini Adityananda Saraswati, *Swachhata Sanskriti, From the Historic to the Holy: India's Swachhata Legacy*, p. 29 (Global Interfaith WASH Alliance India, September, 2019)

⁵⁰Saptrishi Dutta, 'India@70: A Brief Colonial History of Sanitation in India', *NDTV's Banega Swachh India Campaign*, August 17, 2017, Available at: <https://swachhindia.ndtv.com/india70-a-brief-colonial-history-of-sanitation-in-india-10602/>. (visited on: September 28, 2018)

policy on the grounds that the colonial state could not afford the expense of “sanitising India”.⁵¹

The first real attempt to tackle sanitation in India was the outcome of the researches and the Report of the Army Sanitary Commission of 1859–63. The **Royal Commission on the Sanitary State of the Army in India** was appointed in 1859.⁵² The commission reported in 1863 linking the health and ineffectiveness of British soldiers to poor sanitation. It also recommended the formation of Public Health Commissions in the Presidencies of Madras, Bombay, and Bengal, intending to reduce disease in the army and improve the health of the general public. When the Royal Commission’s report linked health to sanitation, the colonial administration separated the army and British officers and moved them from the indigenous city to new cantonments or residential areas, i.e., civil lines where hygiene lessons were applied. The purpose of dividing the cities into two was to further increase military security. Subsequently, many cities, notably Lucknow and Delhi, which were directly associated with the rebellion, were radically reorganized to reduce the risk of disease.⁵³

When the British Royal Commission reported a high mortality rate of 69 out of 1,000 soldiers due to diarrhea, various commissions and boards for public health were set up in each Presidency to carry out a planned health policy in India. On the recommendations of the commission, sanitary commissions for public health were set up in the Bombay and Madras Presidencies in 1864 but, these commissions were only able to “consult and advise” as they lacked executive powers.⁵⁴

It was only in the late 1860s that public health and sanitation became effective with the passing of the **Military Cantonments Act of 1864**. Under the Act, a sanitation police were established. It was formed under the charge of military medical officers to improve military hygiene. To improve civil sanitary conditions, for the first time, sanitary boards were formed in each province in 1864 to look after civil

⁵¹Susan E. Chaplin, “*The Politics of Sanitation in India, Cities, Services and the State*,” pp. 38-39 (Orient BlackSwan Private Limited, 2011)

⁵² Report of the commissioners appointed to inquire into the sanitary state of the army in India: with abstract of evidence, and of reports received from Indian military stations, 1864

⁵³Susan E. Chaplin, “*The Politics of Sanitation in India, Cities, Services and the State*,” (Orient BlackSwan Private Limited, 2011).

⁵⁴*ibid*

sanitation conditions. Sanitary Inspector General's later named as Sanitary Commissioners replaced these boards and took over the charge of sanitation.⁵⁵

The Sanitary Act was passed in **1866**. The Act made it mandatory for local authorities to improve sanitary conditions and remove nuisances to public health. As a result of which, overcrowding in residences became illegal and, the local authorities had to take the responsibility of ensuring the sewerage system. The Act also required all houses to be connected to a main sewer. Also, sanitary inspectors were appointed in each city as prescribed by the Act. Furthermore, the government was empowered to intervene and remove health hazards where local authorities failed to do so.⁵⁶ Later, some posts of Sanitation Commissioners were also created. The task was made difficult for the sanitation commissioners as discussions continued about what else was needed for the most appropriate type of conservation system for India. The result was that "by the 1870s, the British authorities and sanitation officials still had not decided what kind of excreta removal would be most applicable in British Indian cities". Most municipal reforms were focused on eradication of epidemics and construction of estates, but no programme addressed the sanitation needs of Indians.⁵⁷

To improve the sanitary conditions, the governments of various countries also resorted to legal measures. From **1870 to 1879**, sanitary departments were set up in each province. In 1878, the first Sanitation Bill was implemented in India, under which it was made compulsory to build toilets even in the slums of the then capital of India, Kolkata.⁵⁸ Under the orders of the Governor General of India in 1880, Sanitary Engineers were employed in all major provinces. The Sanitary Commissioner of India and the provincial sanitary commissioners had no executive powers and were advisors to the government. They carried out the inspection of sanitation, the supervision of vaccinations, the maintenance of vital statistics, and the collection of meteorological data.

⁵⁵Saptrishi Dutta, 'India@70: A Brief Colonial History of Sanitation in India', *NDTV's Banega Swachh India Campaign*, August 17, 2017, Available at: <https://swachhindia.ndtv.com/india70-a-brief-colonial-history-of-sanitation-in-india-10602/>, (visited on: September 28, 2018).

⁵⁶ Robert Cecil Austin and William Hardwicke, *The Sanitary Act, 1866 : with notes, statutes, &c, together with copious notes and commentaries on public health and the sanitary laws of England and suggestions for a code of sanitary law* (Nicholls Bros, London, 1867)

⁵⁷*ibid*

⁵⁸ Available at: <https://www.sulabhtoiletmuseum.org/history-of-toilets/> (visited on: November 19, 2019)

In districts, civil surgeons (Districts Medical and Sanitary Officers in Madras and Deputy Sanitary Commissioners in Bombay) were in charge of sanitation. The local self-government policies of Lord Ripon strengthened the efforts to improve sanitation by increasing the availability of funds at the local level. In 1885, the **Local Self-Government Act** was passed and local bodies came into existence. These were now responsible for sanitation at the local level but the necessary staffs were not provided by the Central Government. Around 1888 Local bodies and Municipal Officers in the rural areas were appointed to look into the sanitation and health problems. The Central government had two advisors (a) Director General of Indian Medical Service, (b) Public Health Commissioner. The Public Health Commissioner was responsible for submitting the Annual reports to Government of India, on the health of the country. His other functions were the consolidation and issue of vital statistical returns for the British India.⁵⁹

In 1912, the Government of India sanctioned the appointment of Deputy Sanitary Commissioners and Health Officers with the local bodies and released funds for sanitation.⁶⁰ Soon, the first town planning legislation, i.e., the Bombay Town Planning Act⁶¹ came into force on March 6, 1915 in India. The Act primarily provided for the preparation of town planning schemes (TPS) for areas within the jurisdiction of the local authority. Over the time, however, the emphasis shifted from using bye-laws and sanitation systems to address these problems to controlling the use of land. At the same period, slum clearance had become the most commonly-used method by financially-constrained local governments in their attempts to beautify the city, pushing the poor to overcrowded fringe areas.

Simultaneously, large residential areas were developed in an attempt to make cities 'sanitary' by spending huge amounts of public finance to build the capital infrastructure of drainage and sewerage system. These practices of colonial India led

⁵⁹ W.W. Hunter, *Imperial Gazetteer of India: The Indian Empire*, (Administrative, Vol. 4) op.cit, p.461.

⁶⁰ Muhammad U. Mushtaq, 'Public health in British India: A brief account of the history of medical services and disease prevention in colonial India', vol.3, *Indian Journal of Community Medicine*, pp. 6-14 (2009).

⁶¹ Bombay Town Planning Act, 1915 (Bom. 1 of 1915)

to the adoption of slum clearance policies post-Independence, in late the 1950s, as an approach towards city beautification.⁶²

2.1.4(b) Post-Independent Period

By 1947, the Indian population which was more than 30 crore had less than 1% sanitation coverage and this statistic did not improve for a long time. Thus, we can say that before independence, the policies were confined to Military Headquarters and European settlements only, but thereafter it was very slowly penetrated towards the residences of local population.⁶³

In 1947, India came out of colonial rule after gaining independence but faced many problems of violence after partition. Most Indians did not have access to basic amenities because, after independence, the government somewhere failed to ensure the development of Indian cities and address environmental problems. This can be seen in overcrowding, overpopulation, crumbling infrastructure, and inadequate provision of basic services. The failure occurred because governments continued to use colonial urban planning practices to ignore the need for spatial and housing largely. This meant that these bodies lacked both the financial and technical capabilities to operate and maintain existing infrastructure such as sanitation and water supply.⁶⁴

The inadequate supply of land and housing within the planned areas of these cities led to the rapid development of agricultural colonies and slums on the agricultural lands and villages. These unauthorized colonies usually provided housing for lower-middle-class residents who were confident that the government would legalize them soon. Rural migrants or resettled slum dwellers were residents of illegal slums.⁶⁵ Families from the urban poor and slum communities began to exercise their democratic rights by demanding welfare benefits such as community toilet blocks, water taps, and roads. When the urban poor were forced to live in illegal housing and

⁶²Mahak Agrawal, 'Bharat: Swachh for thousands of years', *The Federal*, 18 April, 2019. available at: <https://thefederal.com/the-eighth-column/bharat-swacch-for-thousands-of-years/> (visited on June 12, 2019)

⁶³Saptrishi Dutta, 'India@70: A Brief Colonial History Of Sanitation In India', *NDTV's Banega Swachh India Campaign*, August 17, 2017, Available at: <https://swachhindia.ndtv.com/india70-a-brief-colonial-history-of-sanitation-in-india-10602/>, (visited on: September 28, 2018)

⁶⁴Susan E. Chaplin, *The Politics of Sanitation in India, Cities Service and State*, p61, (Orient BlackSwan, New Delhi, 2011).

⁶⁵*ibid*

poor environmental conditions, they enlisted the aid of an intermediary to intervene on their behalf to gain access to basic services and resources. Certain groups of the urban poor partnered with NGOs, community organizations, and government agencies to achieve/provide sanitation, and develop alternative approaches. This meant that slum dwellers were now directly involved in the design, construction, and maintenance of community toilet blocks and other facilities.⁶⁶ The legacy of colonial urban planning along with the western structure of the city's arrangement and functioning also exacerbated urban problems as the post-colonial state in India only expanded but did not change the basic institutional arrangements of colonial law and administration.⁶⁷

India's independence brought to light a serious problem of sanitation in India, after which the government began to establish a framework to guide the growth of the economy and promote the welfare of the population. Keeping in view the importance of sanitation on a nationwide basis, the **Bhore Committee**⁶⁸ was established. Later it was given great importance in the national development plans. The committee had two conditions: (a) a comprehensive survey of the current situation about health conditions and health organizations in British India and (b) recommendations for future development.⁶⁹ At the time of the **Bhore Committee**, the health of children and women was worse. In the pre-war years, 48% of all deaths in India were children who were below the age of 10 years. The maternal mortality rate was around 20 per 1000 in India compared to around 3 per 1000 in England.⁷⁰ The committee proposed a target to supply safe water to 50% of the population within a period of 20 years and the remaining 50% in the next 15 years.⁷¹

⁶⁶*supra* at p.10-11

⁶⁷Partha Chaterjee, *The Nation and Its Fragments: Colonial and Post-Colonial Histories*, p.15 (Princeton University Press, 1993).

⁶⁸ This Committee also known as the Health Survey & Development Committee. It was appointed by the Government of India on 18th October in 1943 under the Chairmanship of Sir Joseph Bhore. It laid emphasis on integration of curative and preventive medicine at all levels. It made comprehensive recommendations for remodelling of health services in India. Available at: https://www.nhp.gov.in/bhore-committee-1946_pg (visited on February 21, 2019)

⁶⁹Ravi Duggal, 'Bhore Committee (1946) and its Relevance Today', 58, *The Indian Journal of Paediatrics*, Pp 395-406 (1991)

⁷⁰*ibid*

⁷¹ Government of India, Report: Health Survey and Planning Committee 1959-1961 (Ministry of Health, 1961) p146.

Later on, the Union Government appointed the **Environmental Hygiene Committee (1948-49)**.⁷² It was the first agency of its kind, which was charged with an overall assessment of the country-wide problems in the entire field of environmental hygiene. The committee recommended specifically a comprehensive plan to provide water supply and sanitation facilities for 90 percent of the population within a period of 40 years.⁷³ The term of the reference of the committee were:⁷⁴

1. To investigate the whole field of environment hygiene with special reference to:-
 - a) Town and village planning,
 - b) General sanitation and drainage,
 - c) Urban and rural housing,
 - d) Water supply,
 - e) Prevention of beach pollution,
 - f) Control of insects vectors of disease, and
 - g) Regulation of certain trade, industries and occupations, which is dangerous to health and offensive to community.
2. Framing of the programme of development for the consideration of government based on an examination of the recommendations of Health Survey & Development Committee regarding environmental hygiene and of the plan of the province.

It is noticeable fact that, during the 1950s and 1960s, India's national development policies was strongly influenced by western concept of modernization. Its largest share of investment was in only few metropolitan cities where industries were located. Later, the National Five Year Plan (FYP) emphasized the need for clean

⁷² In June 1948, Government of India, Ministry of Health, constituted the Environmental Hygiene Committee to consider the recommendation of the Health Survey & Development Committee and what steps was to be taken to implement in regard to Environmental Hygiene. Available at: https://www.nhp.gov.in/sites/default/files/pdf/Mudalier_Vol.pdf (visited on: April 26, 2018)

⁷³ Government of India, National Master Plan: International Drinking Water Supply and Sanitation Decade 1981-1990 (Ministry of Works and Housing, 1983)

⁷⁴ Government of India, Report: Heath Survey and Planning Committee 1959-1961 (Ministry of Health, 1961) p.146.

collection and disposal of community waste in its first five-year plan keeping in view the need for sanitation. In order to implement the recommendations given by the Bhole Committee and Environmental Sanitation Committee of the Government of India, the Ministry of Health launched the National Water Supply and Sanitation Program in 1954 under the First Five-Year Plan (1951–56).⁷⁵ The aim of this Programme was to provide water supply and sanitation facilities to all urban and rural communities in India. Under this program, the Government of India has approved long-term loans for urban planning and a 50 percent grant-in-aid for rural water supply and sanitation schemes. The First Five Year Plan noted that out of 48 cities with a population of more than one lakh, only 23 had sewerage and 12 other cities had partial sewerage systems.⁷⁶

State Governments and Union Territories were responsible for formulating and implementing sanitation schemes, which were done with the help of the Central Government. It provided comprehensive guidance, direction, and financial allocation as well as coordination at the national level. In 1958, the Ministry of Health, Government of India established the Central Public Health Engineering Organization to implement the National Water Supply and Sanitation Program and to advise the government on problems related to environmental sanitation.⁷⁷ After that, the National Water Supply and Sanitation Committee was appointed in 1960 by the Union Health Ministry. However, in its report, the committee has mentioned that no concerted effort is being made to implement the recommendations of the Environment Sanitation Committee.⁷⁸

Under Second FYP, more money was allocated to the states to employ more sanitation workers and engineers to take the sanitation goals further. It gave emphasis on the establishment of public health engineering organisation and training for public health engineers, overseers, sanitary inspectors, etc.⁷⁹ The plan allocated Rs. 53 Crores for urban water supply and sanitation, Rs. 28 crores for rural water supply and

⁷⁵Government of India, Report: Five Year Plan Progress Report for 1954-55 (Planning Commission, 1956) p192.

⁷⁶ Government of India, The First Five Year Plan (1951-56) (Planning Commission, 1951) pp. 496-497.

⁷⁷ Government of India, Report: Health Survey and Planning Committee 1959-1961 (Ministry of Health, 1959) p.158.

⁷⁸Gauri Shankar Ghosh *et al.*, 'Water Supply in Rural India: Policy and Programme,' p.3, (New Delhi: Ashish Publishing House, 1995).

⁷⁹ Government of India, The Second Five Year Plan (1956-61) (Planning Commission, 1956), p. 500.

sanitation, and a special grant of Rs. 10 crores for urban areas with municipal corporations. An additional Rs. 50 lakh was also sanctioned for the training of sanitary inspectors and health engineers.⁸⁰ During the 1950s and 1960s, improvement in sanitation was irregular because there were no sanitation programmes nationwide that focused exclusively on sanitation. However, the scenario changed over the next decade as the government took a positive approach to create more awareness about rural sanitation and the construction of low-cost sanitary toilets.⁸¹ The government also emphasized the importance of providing drainage, sewerage, and safe disposal of sewage in towns and cities.⁸² But, the India-China war and rising inflation pushed back the sanitation and water supply agenda as all expenditure and attention shifted to industrialization and defence matters.⁸³

After the first three FYP, the role of the state in terms of sanitation was shifted towards social service. Sanitation, which used to be seen from Health's Point of View is now being planned as social service through various social movements.⁸⁴ This disconnection of sanitation to public health was based on the fact that, in cities other than those with sewerage systems, it was necessary to improve the condition of those in unclean occupation (Manual Scavenging) with the problem of sanitation.⁸⁵ In India, the realization of the right to sanitation is dependent on recognition of the social aspect of sanitation, among other factors, including the deplorable practice of manual scavenging and the working conditions of the scavengers. Under the Fourth Five Year Plan (1969-74), it was observed that it would take a long time to afford a fully developed sewerage and sanitation system in rural areas. Further, it was suggested that the efforts to improve the condition of manual scavengers under the existing arrangements have not been met with much success. It is imperative to think in terms

⁸⁰ Kiran Jain, 'Drainage and Sanitation : Law and Policy,' vol.33(4), *Journal of the Indian Law Institute*, pp. 553-588 (1991)

⁸¹ *ibid*

⁸² Government of India, The Third Five Year Plan (1961-66) (Planning Commission, 1961), p.655-7.

⁸³ Susan E. Chaplin, *The Politics of Sanitation in India, Cities Service and State,* (Orient BlackSwan, New Delhi, 2011).

⁸⁴ P. Cullet, S. Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspectives,* p.119 (Oxford University Press, New Delhi, 2019)

⁸⁵ Susan E. Chaplin, *The Politics of Sanitation in India, Cities Service and State,* p.69, (Orient BlackSwan, New Delhi, 2011).

of removing the existing systems either by adopting a proper underground sewerage system or by converting all dry latrines into some kind of improved latrines.⁸⁶

In the late 1950s, freedom fighter G. S. Lakshman Iyer banned manual scavenging when he was the chairman of Gobichettipalayam Municipality (Tamil Nadu), which became the first local body to ban it officially. After that, number of committees were constituted by the Central and State governments for the liberation and rehabilitation of scavengers since independence such as the Barbe Committee in Maharashtra, the Slappa Committee in Karnataka, the Malkani Committee, the Bhanudas Pandya Committee and presently the Safai Karamcharis Commission. However, the problem is so gigantic that there is a lot of ground to be covered.⁸⁷

The year 1974 played a crucial role in India's sanitation as important decisions were taken, which paved the way for future sanitation programmes. Sanitation once again made a comeback as a priority for the government in 1974, as a part of the Minimum Needs Programme (MNP).⁸⁸ The MNP was introduced in 1975-76 with the implementation of the Fifth Five-year Plan. The program was designed to help raise the standard of living and reduce regional inequalities in development.⁸⁹ The MNP identified sanitation as a minimum need, necessary for basic human life. In the MNP sanitation was identified as a major requirement. Rural health was focused on and a target was set to achieve sustainable sanitation, drinking water supply for all by the year 2000.⁹⁰ The Environmental Improvement Scheme for Slum Area, which was initiated in 1972 during third FYP, was also continued as a part of The Minimum Needs Programme.⁹¹

⁸⁶ Planning Commission, Government of India, *The Fourth Five Year Plan (1969-74)*, p.322-4

⁸⁷ ZomaItrat Khan, *The Socio-Legal Aspect of Caste: A Crooked System*, *Centre for Academic Legal Research*, October 10, 2020. Available at: <https://calr.in/the-socio-legal-aspect-of-caste-a-crooked-system/> (visited on: January 29, 2021)

⁸⁸ The Minimum Needs Programme (MNP) was introduced in the first year of the Fifth Five Year Plan (1974-78), to provide certain basic minimum needs and improve the living standards of people. It aims at "social and economic development of the community." Available at: <https://niti.gov.in/planning-commission.gov.in/docs/plans/planrel/fiveyr/7th/vol2/7v2ch19.html> (visited on: February 2, 2019)

⁸⁹ Minimum Needs Programme (MNP). Available at: <https://niti.gov.in/planningcommission.gov.in/docs/plans/planrel/fiveyr/7th/vol2/7v2ch19.html> (visited on: February 2, 2019)

⁹⁰ Saptshri Dutta, 'India@70: Two Decades and The Five Year Plans Which Focused On Sanitation', NDTV. Available at: <https://swachhindia.ndtv.com/india70-two-decades-and-the-five-year-plans-which-focused-on-sanitation-10604/> (visited on: April 16, 2019).

⁹¹ Government of India, *Draft of Fifth Five Year Plan (1974-79)*, Vol 2 (Planning Commission 1974), p.258

The Government of India has also been initiated Twenty Point Programme (TPP) during the Fifth Five-year Plan (1974-78). Its primary focus was to eradicate poverty and increase the standard of the living of the poor.⁹² It was restructured in 1982, 1986 and again in 2006.⁹³ The programme covered 20 Points and 66 socio economic aspects which was being monitored individually by concerned Central Nodal Ministries. Sanitation was the central focus of the programme. Some key aspects, which were directly linked to the issue of sanitation, was included improvement of slums, better housing facilities and safe drinking water.⁹⁴

A really new thrust for water supply and sanitation came with the Sixth Five Year Plan (1980-85) which coincided with the beginning of the UN-declared International Drinking Water Supply and sanitation decade (1981-1991) to which India had pledge to provide 100 per cent sewerage and sewer facilities. The sixth FYP allocated a substantial outlay to the water supply and sanitation sector, and a high priority was given to the coverage of sanitation in villages. The following targets were fixed by the Indian Government for the decade:⁹⁵

- 100% Urban and Rural Water Supply
- 50% Urban Sanitation
- 25% Rural Sanitation

Under the Sixth Plan, it was estimated that nearly 98 per cent of the rural households did not have any latrines and very little attention had been given to the problem of rural sanitation.⁹⁶ It was pointed out that only 33 per cent of the urban population and less than one per cent of the rural population could be provided with sanitation facilities by the end of the Sixth Plan.⁹⁷

The concept a National Urban Policy was addressed for the first time by the National Commission on Urbanisation, during the Seventh Five-Year Plan (1985-90), whose term of reference including making recommendations for improvement of

⁹² P. Cullet, S. Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspectives*, p121, (Oxford University Press, New Delhi, 2019).

⁹³ Government of India, Twenty Point Programme -2006, Progress Report for the Period, April 2017– March 2018 (Ministry Of Statistics And Programme Implementation, 2018).

⁹⁴ *ibid*

⁹⁵ Government of India, National Water and Sanitation programme, (Ministry of Environment & Forest, 2020).

⁹⁶ Planning Commission, Govt. of India, The Sixth Five Year Plan (1980-85) p397-401.

⁹⁷ Planning Commission, Govt. of India, The Seventh Five Year Plan {1985-90) p300-4

policies and institutional framework. The report of the National Commission on Urbanisation, published in 1988, said that no comprehensive urban policy has yet been developed and funding has not been increased to the recommended level.⁹⁸ The first attempt to reform was made in 1989 when the Bill⁹⁹ was introduced in the Lok Sabha seeking to create a third tier of urban government but the Bill was defeated in Rajya Sabha. In 1992, 74th Constitutional Amendment was passed in both house of parliament for reform of urban local government. The obligation to provide sanitation related services in urban areas has been framed by the 74th Constitutional Amendment, under which sanitation related functions have been devolved to municipal bodies. In addition, the 73rd Constitutional Amendment in 1992 entrusted the Panchayati Raj Institutions as the third tier of government to carry out development activities in rural areas. The 73rd and 74th Constitutional Amendments adopts a liberal approach, which needs to replace centralised, government-controlled and supply-driven approaches. The Eight FYP onwards, this approach was largely adopted which led to revamping of the major sanitation policies in India.

The Eighth Five Year Plan (1992-97) target to cover 25 per cent of the rural areas under sanitation by 1990. A sub-group on urban municipal waste management was set up by the National Waste Management Council constituted by the Ministry of Environment and Forests. It has recommended an outlay of Rs. 550 crores for the Eighth Plan to convert dry latrines into sanitary latrines under the (urban) Low Cost Sanitation Programme for the liberation of scavenger's scheme over a period of five years.

The Eighth FYP pushed for linking housing with sanitation in terms of policies, both in rural and urban areas through the Indira Awas Yojana (IAY) and the Housing and Urban Development Corporation (HUDCO), respectively. Low Cost Sanitation Programme for the liberation of scavengers scheme was taken up by HUDCO.¹⁰⁰

The Indian parliament passed another Sanitation Act in 1993, i.e., the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Bill 1993 to abolish scavenging and ban construction of dry latrines. Under this Act

⁹⁹65th Constitutional Amendment Act, 1990

¹⁰⁰ Philippe Cullet, Sujith Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspectives*, p.125, (Oxford University Press, New Delhi, 2019)

construction of dry latrine and its manual cleaning was made an offence.¹⁰¹ It also constituted the National Commission for Safai Karamcharis in 1994, with its main function being recommending specific programmes of action towards elimination of inequalities in status, facilities and opportunities for Safai Karamcharis under a time-bound action plan and study and evaluation of the implementation of the programmes and schemes. But despite this enactment, open defecation was rampant.

The critical assessment of previous FYPs led the Ninth FYP (1997-2002), it stated that many goals of housing, portable water and sanitation which were to be attained by 2001, may require the target point to fill the urban-rural gap. This plan clearly mentioned that there is need to promote private sector participation (PSP) in the provision of public infrastructure. It also identified sanitation as a crucial aspect of health for all.¹⁰² Tenth FYP (2002-2007) also stated that PSP should be encouraged. The plan intended to treat water as an economic good rather than a free commodity. It became the basis for sanitation policies and scheme. Following the Ninth and Tenth Five Year Plans, the Eleventh Five Year Plan (2007–2012) also advocated PSP and Public-Private Partnership (PPP). The plan suggested that India needs to adopt strategies for efficient management of the sanitation process by recycling and reusing along with pricing. Continuing the strong pitch for private players, the Twelfth Five Year Plan (2012-2017) mentioned the need for massive investment by the private sector to meet the cost of water treatment, sewage treatment etc.¹⁰³ This Plan had a broad vision of faster sustainable and more inclusive growth. It identified that lack of proper sanitation as the major weakness of our system, which adversely affect women.¹⁰⁴ In this regard, the Plan promised to make gender impact assessment of the TCS and also to ensure toilets with water in all schools and Anganwadis in India to achieve the dream of Nirmal Bharat.¹⁰⁵

In 2014, the central government identified open defecation as a priority issue across India, not just in villages, and launched a Swachh Bharat Mission (SBM) or

¹⁰¹ Available at: <https://www.sulabhtoiletmuseum.org/history-of-toilets/> (visited on: November 19, 2019)

¹⁰² Planning Commission, Govt. of India, The Ninth Five Year Plan (1997-2002)

¹⁰³ Planning Commission, Report of the Steering Committee on Water and Sanitation for Twelfth Five Year Plan (2012-2017)

¹⁰⁴ Planning Commission, Twelfth Five Year Plan (2012-2017)

¹⁰⁵ Planning Commission Report of the Steering Commission on Water and Sanitation for Twelfth Five Year Plan (2012-2017)

Swachh Bharat Abhiyan (SBA) to eradicate it by 2019. For the first time in independent India's history, sanitation became a national priority and subject of conversation across society. It is an ambitious program to bring back the policy focus on sanitation and create a time-bound plan to improve access to rural and urban toilets across India. Swachh Bharat Mission has demonstrated progress on several parameters of sanitation. This mission served two main functions, it made rapid construction of toilets across the country and made sanitation a domestic topic of conversation. This turned out to be a nationwide communication campaign that focused on the need for better sanitation.¹⁰⁶ Swachh Bharat Mission has been successful to a considerable extent in achieving the set target. According to the second edition of NARSS in 2018-19, about 93.1% of rural Indian households have toilets, and 96.5% of these toilets are in continuous use.¹⁰⁷

Following the success of the Swachh Bharat Mission, the Government of India, in 2019, launched the next phase of the mission, SBM-2.0 (SBM II), which focuses on the next phase of important outcomes related to safe sanitation. The operational guidelines for the second phase of the Swachh Bharat Mission (SBM II) were released by the Department of Drinking Water and Sanitation (DDWS) under the Union Ministry of Water (Jal) Shakti on May 2020. The guidelines included, ensuring sustainability of the significant progress made on toilet access, ensure continued usage of facilities created and usage; providing sufficient water and connections for sanitation systems to work; and perhaps most importantly, proper collection, containment, treatment, disposal or recycling of faecal waste accumulated in septic tanks and pits.¹⁰⁸

With SBM-2.0, India is poised to provide safe and hygienic sanitation to all its citizens. However, to achieve the mission to its full potential, the next steps are needed to deploy toilet-to-treatment technologies, strengthen municipal capacities, drive behaviour change efforts and build local community ownership models. It is the

¹⁰⁶ V. Srinivas Chary, SBM 2.0: India's next steps in the Swachhta journey, *The Times of India*, October 16, 2019

¹⁰⁷The Government of India, National Annual Rural Sanitation Survey (NARSS)Round-2 (2018-19) (Ministry of Drinking Water and Sanitation, Ministry of Jal Shakti, 2019)

¹⁰⁸ Sushmita Sengupta, Swachh Bharat Mission Phase II guidelines released, *Down to Earth*, 08 June 2020.

way of the future for everyone, every day, forever, along with a sustained political will.

An analysis of India's sanitation policies and programs thus far shows that their implementation has been purely government-led, infrastructure-centred, supply driven and subsidy-based. Our approach towards sanitation has been purely programmatic.

2.2 CONCLUSION

From the time of the Indus Valley Civilisation to British India, India witnessed the rise and fall of several imperial powers and dynasties, and with them their own practices and principles of sanitation. We can understand that our ancestors were very much aware of perfect sanitation method.

The history of sanitation has been parallel to the history of rural and urban life. Places of high-density population only grew to new levels when developments in sanitation were possible. The first innovations in prehistory and early historical periods led to developments in late antiquity, such as that seen in Rome, the Near East, Central Asia, and East Asia. However, after this period, relatively modest development occurred. This resulted in urban populations rarely surpassing one million before 1800. It was only with the development of modern sewage systems, pumps, chemical treatments, modern toilets, filtration, and activated sludge that sanitation greatly improved and now allows our modern cities to be possible. This has now led us to the point where modern cities can grow to a greater size and the human population has subsequently expanded.

With General Comment 15 of UNCESCR and two U.N. resolutions within the last decade, an arguably strong basis now exists for recognizing the human right to safe drinking water and sanitation under the International Covenant on Economic, Social, and Cultural Rights. However, declaring a human right to safe drinking water and sanitation will not solve the drinking water and sanitation crisis alone. Still, it will lend moral, political, and legal momentum to efforts to improve access to these critical services, reaffirming their importance to human dignity. Because the law is a reflection of social norms, and human rights law, in particular, is an articulation of global values and aspirations.

In the Indian context, inadequate sanitation and high levels of open defecation are more severe in rural areas than urban areas. However, since independence, the government has made concerted efforts to improve sanitation and reduce open defecation in the country. Swachh Bharat Mission (2014-2019) has been a major mission to make India open defecation-free.

RIGHT TO SANITATION UNDER THE INTERNATIONAL LEGAL FRAMEWORK

The right to sanitation is a basic human right that ensures an adequate standard of living for every person. It is fundamental to human existence and to lead a dignified life. Inadequate sanitation impacts individuals, households, communities, and countries. It is also a leading cause of disease and death worldwide. In 2015, 2.4 billion people worldwide were estimated to be using unimproved sanitation facilities. Among them, nearly a billion people practice open defecation, which is a major cause of malnutrition, stunting, and increased diarrheal disease, among other negative impacts.

Sanitation has often been considered together with water in international/national instruments. It was believed that the right to water included the right to sanitation and the right to water extends to the right to sanitation. As a result, more attention was given to the right to water, and the right to sanitation was ignored. National and international programs that addressed water and sanitation together invested more in water than sanitation.¹ The importance of sanitation was raised in the International Drinking Water Supply and Sanitation Decade from 1981 to 1990. An effort to recognize a separate sanitation right began with the initiative of the United Nations Special Rapporteur (Catarina De Albuquerque) on Human Rights to Drinking Water and Sanitation. The Special Rapporteur argued that sanitation is a separate right due to its specific dignity dimensions, so it should be considered an individual right. Moreover, it was also essential to separate the right to sanitation from the right to

¹Obani and Gupta, The evolution of the Right to Water and Sanitation: Differentiating the Implications, vol. 24(1) *Review of European, Comparative & International Environmental Law*, pp. 27-39 (2015).

water because not all sanitation options depend on water-borne systems. The situation of people who lack sanitation differs from that of people who lack water.²

In 2000, the United Nations formulated development goals under the Millennium Declaration³ (MDG), which explicitly mentioned only water, but it was the narrow development objective. As a result, the MDGs were seen as an arbitrary target by those who were advocating for the human right to water and sanitation. In this regard, Special Rapporteur argued that the States should follow a ‘progressive realization’ approach based on a continual assessment of national priorities because the ultimate objective is to achieve the full realization of the human right to sanitation.⁴ However, the MDG missed the sanitation target by a wide margin. There were almost as many people without access to improved sanitation at the end of 2015 (2.37 billion) as there were in 1990 (2.45 billion), with sanitation coverage below 50 percent in 47 countries.⁵

The demand for sanitation has gained considerable success at the international level in the 21st century. Thus, for the realization of human rights, several international human rights treaties were drawn up which referred to the importance of water and sanitation (separately or together). These include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979⁶, the Convention on the Rights of the Child (CRC), 1989⁷, and the Convention on the Rights of Persons with Disabilities (CRPD).⁸ In 2002, the Committee for Economic, Social and Cultural Rights (CESCR), adopted General Comment No. 15 on the human

² Catarina De Albuquerque, ‘Realising the human rights to water and sanitation’ (2014) Available at: https://www.ohchr.org/Documents/Issues/Water/Handbook/Book1_intro_.pdf (visited on: May 13, 2016).

³ The United Nations Millennium Declaration, signed in September 2000 commits world leaders to combat poverty, hunger, disease, illiteracy, environmental degradation, and discrimination against women. The MDGs are derived from this Declaration, and all have specific targets and indicators. The United Nations Millennium Development Goals are eight goals that all 191 UN member states have agreed to try to achieve by the year 2015. Available at: <https://www.un.org/en/development/devagenda/millennium.shtml> (visited on: April 23, 2019)

⁴ C. Albuquerque & V. Roaf, ‘On the right track. Good practices in realizing the rights to water and sanitation. Lisbon: ERSAR. (2012). Available at: https://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices_en.pdf (visited on: April 23, 2019)

⁵ UNICEF, Strategy for Water, Sanitation and Hygiene 2016–2030, (2016) Available at: UNICEF_Strategy_for_WASH_2016_2030.PDF.pdf (visited on: March 15, 2019)

⁶ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979. Art. 14 (2)(h)

⁷ The Convention on the Rights of the Child (CRC), 1989, Art. 24 (2)

⁸ The Convention on the Rights of Persons with Disabilities (CRPD), Art. 28 (2)(a)

right to water. General Comment 15 also recognizes ensuring access to basic sanitation as a core obligation emanating from the Right to Water. In addition, General Comment No. 15 provided guidance to States on how to interpret the right to safe drinking water and sanitation under two articles of the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966, i.e., **Article 11** (the right to an adequate standard of living) and **Article 12** (the right to health). In July 2010, the majority of the UN General Assembly recognised sanitation (along with water) that ‘sanitation as a human right that is essential for the full enjoyment of life, including other human rights.’⁹ Again, in 2015, sanitation was recognized in a consensus vote by the General Assembly as a distinct and separate human right.

A revised UN resolution in 2015 highlighted that these two rights are separate but equal.¹⁰ It obliges States to achieve universal access to water and sanitation, guided by human rights principles and defined standards. The legal content of the human rights to water and sanitation ensures the availability, accessibility, acceptability, affordability, and quality of water and sanitation. The emergence of the right to sanitation as a distinct right can be justified on various grounds. First, a clear legal recognition of the right to sanitation would make it a legal right rather than a charity or mere moral priority. Second, a legal entitlement provides the right holders with an opportunity to hold the duty bearer accountable. And third, the concerns and interests of vulnerable and marginalized groups will get priority attention.¹¹

The adoption of the Sustainable Development Goals (SDGs) in 2015 sets a deadline for achieving universal access to water and sanitation services by 2030. The SDGs created an additional motivation for accelerating the implementation of this right. The WHO/UNICEF Joint Monitoring Programme (JMP) has published its first report in 2017. The report introduces and defines the new indicators of safely managed drinking water and sanitation services. The report says that in 2015, 29% of the global population (2.1 billion people) lacked safely managed to drink water

⁹ UN General Assembly, The Human Right to Water and Sanitation (Sixty-fourth session, 2010), UN Doc A/64/L.63/Rev.1, para. 1

¹⁰ The Human Rights to Safe Drinking Water and Sanitation, UN GA Resolution 707169, UN doc. A/C.3/70/L.55/Rev.1, para. 1.

¹¹ Sujith Koonan, ‘Right to Sanitation in India: Nature and Scope’, *International Environmental Law Research Centre (IELRC)*, p 1-14 (2016).

services, and 61% of the worldwide population (4.5 billion people) lacked safely managed sanitation services.¹²

The sanitation issue gained importance in the global development agenda after declaring it as an individual human right. In 2013, UN Deputy-General declared the United Nations International Year of Sanitation to the call for an end to open defecation. UN has also declared 19th November a World Toilet Day, an official UN day in 2013.¹³

This chapter discusses international legal instruments, such as international treaties, declarations, resolutions, etc., that focus on sanitation issues, and how the issue of sanitation became an agenda under the Human Rights Standard. It analyses that how international legal instruments provided significant support for recognizing the right to sanitation as a separate human right. It further discusses several human rights treaties that explicitly or implicitly recognize and guarantee access to water and sanitation as human rights. In addition, a number of treaties set out specific State obligations that governments must fulfil to ensure the human right to water and sanitation effectively.¹⁴

3.1 INTERNATIONAL LEGAL INSTRUMENTS RELATED TO THE RIGHT TO SANITATION

It is difficult to say that any international law has an independent right to sanitation. However, there is a range of instruments of humanitarian law that explicitly protect and promote access to sanitation. Some international legal instruments which, directly or indirectly, recognize the right to sanitation are as follows:

¹² WHO & UNICEF (JMP), Progress on Drinking Water and Sanitation: 2017 update and SDG baselines at pp.6-7, 9, 22 and 31.

¹³ World Toilet Day 2013, UN Doc. (A/RES/67/291). Available at: <https://www.un.org/en/events/toiletday/> (visited on: September 04, 2020)

¹⁴Right to Water and Sanitation Programme, Legal Resources for the Right to Water and Sanitation International and National Standards - 2nd edition, Centre on Housing Rights and Evictions January 2008, Available at- http://www.worldwatercouncil.org/fileadmin/wwc/Programs/Right_to_Water/Pdf_doct/RWP-Legal_Res_1st_Draft_web.pdf (visited on: September 12, 2018)

3.1.1 The Universal Declaration on Human Rights (UDHR), 1948

The Universal Declaration on Human Rights (UDHR), 1948, is the pioneering law on human rights and forms a key part of the International Bill of Rights. The UDHR is the first major international instrument and is considered the inspirational source of all subsequent human rights treaties. It deals with the fundamental human right with health, food, housing, and particularly the right to live with human decency and dignity.¹⁵ The UDHR does not explicitly recognize sanitation, but its preamble and Article 25 recognizes the right to sanitation impliedly. **Article 25(1)** stipulates that:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in the circumstances beyond his control.”¹⁶

The Declaration provides inalienable rights to every human being regardless of race, sex, religion, colour, language, political or another opinion, national or social origin, property, birth, or another status.

3.1.2 The Geneva Convention, 1949

The Geneva Convention, 1949,¹⁷ although not related to the right to sanitation, provided some sanitary measures to the prisoners at the time of war. Out of four,

¹⁵ The Universal Declaration on Human Rights (UDHR) Available at: https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf (visited on: April 23, 2018)

¹⁶ Universal Declaration on Human Rights (UDHR), 1948, Art. 25 (1)

¹⁷ The Geneva Conventions are a series of treaties on the treatment of civilians, prisoners of war (POWs) and soldiers who are otherwise rendered outside the fight or incapable of fighting. There are currently 196 countries party to the 1949 Geneva Conventions. These treaties are set out mainly in the four Geneva Conventions of 12th August, 1949 i.e. 1. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces. 2. Geneva Convention for The Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea. 3. Geneva Convention Relative to the Treatment of Prisoners of War. 4. Geneva Convention Relative to the Protection of Civilian Persons in Time of War, and their Additional Protocols of 1977 and 2005. These four Geneva Conventions protects civilians and combatants during armed conflict. It is a body of Public International Law, also known as the Humanitarian Law of Armed Conflicts. (Summary of the Geneva Conventions of 12 August 1949 and their Additional Protocols, International Committee of the Red Cross. Available at <https://www.icrc.org/eng/assets/files/publications/icrc-002-0368.pdf>) (visited on: February 19, 2018)

Geneva Convention (III) (Treatment of Prisoners of War),¹⁸ and the Geneva Convention (IV) (the Protection of Civilian Persons in the Time of War)¹⁹ 1949, mainly refer to access to sanitation. However, the fundamental principle of the Convention was that the individual should not be indiscriminately affected during times of war.²⁰

The Geneva Convention III states that the Prisoners of War (POWs) shall be treated humanely, adequately housed, and receive sufficient food, clothing, medical care, and all sanitary requirements for the welfare of the prisoners. Provision related to sanitation or hygiene or cleanliness has been provided under **Article 29**.²¹ The Article provides that the detaining powers are ‘bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and prevent epidemics.’ Furthermore, the Article established that prisoners of war should be provided with sufficient water and soap for their toilet and for washing their laundry apart from the baths and showers. Also, the necessary installations, facilities, and time shall be granted for that purpose.²² The provision given under Article 29 is mandatory and subject to punishment.²³

The Geneva Convention (IV),²⁴ related to the Protection of Civilian Persons in Time of War, was the first to deal with humanitarian protections for civilians in a war zone. The Convention deals explicitly with civilians in enemy hands, affected by armed conflict. It further states that every civilian is entitled to their basic human

¹⁸ The Geneva Convention (III): International Conventions for the Protection of Victims of War was held in Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention relative to the Treatment of Prisoners of War. There are 196 state parties to the Convention. The Third Convention contains 143 Articles.

¹⁹ The Geneva Convention (IV): Protection of Civilian Persons in the Time of War, 1949. International Committee of the Red Cross (ICRC), Available at- <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0368.pdf> (visited on: February 19, 2018)

²⁰ Albert J. Esgain & Waldemar A. Solf, *The Geneva Convention Relative to the Treatment of Prisoners of War 1949: Its Principles, Innovations, and Deficiencies*, 41 N.C. L. Rev. 537 (1963). Available at: <http://scholarship.law.unc.edu/nclr/vol41/iss3/8> (visited on: February 19, 2018)

²¹ THE GENEVA CONVENTIONS OF 12 AUGUST 1949, International Committee of the Red Cross (ICRC), Available at: <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0368.pdf> (visited on: February 19, 2018)

²² The Geneva Convention (III): Relative to the Treatment of Prisoners of War, 1949, Art. 29

²³ *Ibid.* Art. 97

²⁴ The International Conferences of the Red Cross of the 1920's took the first steps towards laying down supplementary rules for the protection of civilians in time of war. (See: Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949, International Committee of the Red Cross (ICRC), Geneva. Available at: <https://ihl-databases.icrc.org/ihl/INTRO/380> (visited on: February 19, 2018)

rights, and that should be guaranteed without discrimination.²⁵ The provision which is directly related to sanitation has been provided under **Article 36**. It says that ‘Departures permitted shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation, and food.’

The Geneva Conventions entitled Prisoners of War access to water and sanitation in armed conflict and occupation situations. The Conventions are founded on the idea of respect and dignity that those who suffer must be aided without discrimination.²⁶

3.1.3 International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966

The International Covenant on Economic, Social, and Cultural Rights (ICESCR), 1966,²⁷ was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 3rd January 1976. This is a legally binding treaty, and the State Parties are obligated to protect, respect, and fulfil rights essential for one to live a life both with dignity and freedom.²⁸

Although the right to water and sanitation is not explicitly stated in the convention, it was interpreted that the right to water and sanitation can be deduced from **Article 11** (the right to an adequate standard of living) and **Article 12** (the Right to Health) of the ICESCR. To comply with these provisions, the States Parties will take appropriate steps to ensure the realization of these rights.²⁹ For this purpose, States must review their existing legislation, strategies, and policies to ensure that

²⁵ The Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949, International Committee of the Red Cross (ICRC), Geneva. Available at: <https://ihl-databases.icrc.org/ihl/INTRO/380> (visited on: February 19, 2018)

²⁶ The Geneva Conventions of 12 August 1949, International Committee of the Red Cross (ICRC), Available on: <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-0368.pdf> (visited on: February 19, 2018)

²⁷ The International Covenant on Economic, Social, and Cultural Rights, 1966 was Adopted and Opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976.

²⁸ A Handbook on Human Rights for All: International Covenant on Economic, Social and Cultural Rights, PWESCR (Programme on Women’s Economic, Social and Cultural Rights), New Delhi, p8 (2015). Available at: http://www.pwescr.org/PWESCR_Handbook_on_ESCR.pdf, (visited on August 08, 2018)

²⁹ The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966. Art. 11.

they are compatible with obligations arising from the right to water and sanitation and repeal or change them when necessary.³⁰

All the rights created under the ICESCR are monitored by a committee called the Committee on Economic, Social, and Cultural Rights (CESCR).³¹ The Committee also publishes its interpretation of the provisions of the Covenant through the General Comments. These General Comments are official documents of the United Nations that interpret the content of human rights treaties and contain a description of the significance of the Article, definitions, legal analysis, links to other international treaties or protocols, and guidance on implementation.³² The **General Comment No. 15**³³ of the UN Committee on Economic, Social and Cultural Rights (CESCR)³⁴ found that the right to water is an implicit but essential component of **Article 11** and **Article 12** of the ICESCR.

Although, sanitation was left out from the scope of General Comment No. 15. Later, sanitation was also included with water in the text of the General Comment No. 15, when the mandate of the Independent Expert³⁵ was established. Then, General Comment 15 acknowledged that water supply must be available to everyone for personal sanitation. Further, it added a paragraph (Para 29) on its text, under the

³⁰ Portal on the Human Right to water and Sanitation, 'Realising the human rights to water and sanitation: A handbook.' Available at: <http://www.righttowater.info/handbook/> (visited on: July 06, 2018)

³¹ The Committee on Economic, Social and Cultural Rights (CESCR) is the body of independent experts that monitors implementation of the International Covenant on Economic, Social and Cultural Rights by its States parties. The Committee was established under ECOSOC Resolution 1985/17 of 28 May 1985 to carry out the monitoring functions assigned to the United Nations Economic and Social Council (ECOSOC) in Part IV of the Covenant. It consists of 18 independent human rights experts, elected for four-year terms, with half the members elected every two years (Available at: <https://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIntro.aspx>) (visited on: August 26, 2019)

³² Nina Reiners, General Comment No. 15 on the Right to Water (2002), *Quellen zur Geschichte der Menschenrechte*, 2018, available at: www.geschichte-menschenrechte.de/general-comment-15-on-the-right-to-water-2002/, (visited on: March 07, 2019)

³³ United Nations, General Comment No. 15: The right to water, Committee on Economic, Social and Cultural Rights (CESCR), 20 January 2003 (UN Doc. E/C.12/2002/11).

³⁴ Realising The Human Rights to Water and Sanitation: A Handbook by The UN Special Rapporteur Catarina De Albuquerque, Legislative, regulatory and policy frameworks, UN Special Rapporteur on the human right to safe drinking water and sanitation. Available at: https://www.ohchr.org/Documents/Issues/Water/Handbook/Book2_Frameworks.pdf, (visited on: August 26, 2019)

³⁵ UN Human Rights Council, Report of the Independent Expert on the Issue of the Human Rights Obligations Related to access to Safe Drinking Water and Sanitation, Caterina de Albuquerque, 2009, (UN Doc. A/HRC/10/6)

heading of ‘State Parties’ Legal Obligations to Fulfil,’³⁶ and recognised personal sanitation as an essential component of the right.

In 2010, referring to General Comment No. 15, the General Assembly adopted resolution 64/292 with the title “The human right to water and sanitation,” which recognizes the right to sanitation and acknowledges “the importance of equitable, safe and clean drinking water and sanitation as an integral component of the realization of all human rights.”³⁷ In 2011, the Inter-governmental Human Rights Council consensually adopted a resolution affirming the decision of the General Assembly to acknowledge a human right to water and sanitation.³⁸

3.1.4 Convention on the Elimination of All Forms of Discrimination

Against Women, 1979

In most societies, women have the primary responsibility of managing household water supply, sanitation, and health. Gender discrimination on the basis of education, health care, water, sanitation, and other essential services are major barriers for women, which severely impacts their welfare and opportunities.³⁹ The Preamble to the **United Nations Charter**, adopted in 1945, affirms the “dignity and value of human personality” as well as the “equal rights of men and women” and prohibits discrimination based on sex.⁴⁰ These provisions were reiterated in the **Universal Declaration of Human Rights, 1948**, the UN Covenants on Civil and Political Rights, and in the Economic, Social and Cultural Rights of 1966. It was stated that

³⁶ The **General Comment No. 15, Para 29.**, Ensure that everyone has access to adequate sanitation is not only fundamental for human dignity and privacy, but is one of the principal mechanisms for protecting the quality of drinking water supplies and resources. In accordance with the rights to health and adequate housing (see General Comments No. 4 (1991) and 14 (2000)) States parties have an obligation to progressively extend safe sanitation services, particularly to rural and deprived urban areas, taking into account the needs of women and children. (UN Doc. E/C.12/2002/11)

³⁷ Sujith Koonan, ‘Right to Sanitation in India: Nature and Scope’, *International Environmental Law Research Centre (IELRC)*, p 1-14 (2016).

³⁸ Philippe Cullet and Lovleen Bhullar (ed.), *‘The Right to Sanitation in India’*, (Oxford University Press, New Delhi, ed. 1, 2019)

³⁹ Report on: Caste- and gender-based discrimination with regards to the right to health and safety is written by the International Dalit Solidarity Network (IDSN) and Navsarjan Trust and is submitted to the UN Working Group on the issue of discrimination against women in law and in practice for its report to the 32nd session of the Human Rights Council (2016), August 2015 (Available at: <http://idsn.org/wp-content/uploads/2015/12/Caste-and-gender-based-discrimination-with-regards-to-the-right-to-health-and-safety-UN-WG-on-Women-HRC32-Report-2016.pdf>) (visited on: May 13, 2018)

⁴⁰ United Nation Charter, 1945, Art. 1, para. 3

men and women should be able to enjoy all their rights without any discrimination.⁴¹ In order to promote, protect, and avoid severe discrimination against women, the United Nations General Assembly adopted the Convention on the Elimination of all forms of discrimination against women.⁴² The convention is also very well-known as an **International Bill of Rights** for Women.⁴³ India is also a signatory to this convention and has been ratified in 1993.⁴⁴

The Convention explicitly references both water and sanitation within it.⁴⁵ Subclause (h) of clause (2) of Article 14 expressly provides for sanitation and water supply. **Article 14 (2) (h)** of the Convention states that,

*“States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on the basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”*⁴⁶

The lack of access to a clean, safe toilet, especially during menstruation, perpetuates risk, shame, and fear. Thus, the human right to sanitation, including the

⁴¹ UN Water, Eliminating discrimination and inequalities in access to water and sanitation, 2015, p6 (Available at: www.unwater.org/app/uploads/2015/05/Discrimination-policy.pdf) (visited on: May 13, 2018)

⁴² Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 by United Nations General Assembly Resolution 34/180 (18th December 1979). (UN Doc A/34/46) By 2015, 189 members states of the United Nations had ratified this convention of acceded to it. South Sudan was the latest state who accede the CEDAW on 30th April, 2015. (See: FAO, Guidelines for reporting on Article 14, Convention on the Elimination of All Forms of Discrimination against Women, (2005). Available at: <http://www.fao.org/3/a-y5951e.pdf> (visited on: March 07, 2017)

⁴³ United Nations Handbook for Parliamentarian, ‘Convention on the Elimination of all form of discrimination Against Women and its Optional Protocol, p. 3 (2003). Available at: http://iknowpolitics.org/sites/default/files/handbook_parliamentarians_cedaw_en.pdf (visited on: July 03, 2017)

⁴⁴ Dr. Harpal Kaur Khehra, Domestic Application of CEDAW in India: Roll of Judiciary. (2008) (Available at- http://www.wscpedia.org/index.php?option=com_content&view=article&id=31:domestic-application-of-cedaw-in-india--role-of-judiciary (visited on: March 07, 2017)

⁴⁵ UN Women, United Nations Entity for Gender Equality and the Empowerment of Women, Overview of the Convention on the Elimination of all form of discrimination Against Women, Available on: <http://www.un.org/womenwatch/daw/cedaw/> (visited on: March 07, 2017)

⁴⁶ Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13, (UN Doc A/34/46)

principle of non-discrimination and equality with a particular focus on women and girls, must be carefully implemented.

3.1.5 Convention on the Rights of the Child, 1989

Children have the same sanitation rights as adults. At the primary level, children are entitled to get quality health services, including basic facilities like toilets, safe and clean drinking water, clean surroundings, and basic hygiene information. The world promised children that they would protect their basic rights and encourage them to live, learn and grow, listen to their voices and reach their full potential.⁴⁷ Therefore, the first legally binding international instrument related to children and their rights, i.e., the United Nations Convention on the Rights of the Child (UNCRC),⁴⁸ was developed in 1989.⁴⁹

The CRC explicitly mentions water, environmental sanitation, and hygiene under the scope of **Article 24** (the right to health). Clause (c) and (e) of Article 24 of UNCRC gives the child the right to health and imposes the obligation upon the State to implement this right through appropriate measures to combat disease and malnutrition.

The Committee on the Rights of the Child⁵⁰ (CRC) oversees the implementation of the Convention on the Rights of the Child. The Committee has clarified that the States Parties shall recognize every child, a standard of living, adequate for the child's physical, mental, spiritual, moral, and social development.⁵¹ The **General Comment 15** of the Committee deals with the Rights of the Child to the 'Enjoyment of the Highest Attainable Standard of Health' under Article 24. It also

⁴⁷UNICEF (2014): Convention on the Rights of the Child: Understanding the Child Right (Available at: https://www.unicef.org/crc/index_understanding.html. (visited on: September 15, 2018)

⁴⁸ The United Nations Convention on the Rights of the Child (UNCRC) entered into force on 2nd September, 1990. See: Convention on the Rights of the Child Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989. (Available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>. (visited on: January 25, 2019)

⁴⁹ The UNCRC is the widely ratified international human rights treaty. Total 193 countries are signatories to it. Only two countries in the world not having ratified the Convention i.e. the United States and Somalia. See: Manual on the Right to Water and Sanitation: A tool to assist policy makers and practitioners develop strategies for implementing the human right to water and sanitation, (Available at: <http://globalinitiative-esr.org/wp-content/uploads/2013/05/COHRE-Manual-on-Right-to-Water.pdf>. (visited on: September 15, 2018)

⁵⁰ Committee on the Rights of the Child (CRC) is the body of 18 Independent experts that monitors implementation of the Convention and its two Optional Protocols, by its State parties. Available at: <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx> (visited on: September 11, 2018)

⁵¹ The Convention on the Rights of the Child. Art. 27 (1)

casts responsibility on the government departments and local authorities related to water and sanitation to effectively contribute to the realization of the right to the health of children. The Committee even emphasized that the state parties shall not be exempted from performing their duties even on privatizing the right to water and sanitation.⁵²

3.1.6 Convention on the Rights of Persons with Disabilities, 2006

Access to safe and clean water and sanitation facilities is a basic human right of all people, including people with disabilities. Its refusal can have a severe impact on their well-being. For example, inaccessible toilets and water facilities are major contributing factors for school dropout among children with disabilities. Therefore, the provisions related to clean water and basic sanitation facilities for disabled persons have been guaranteed under the UN Convention on the Rights of Persons with Disabilities, 2006.⁵³

Although sanitation is not explicitly provided under the Convention, Article 28 provides an ‘adequate standard of living and social protection.’ The Article says that the States Parties shall recognize an adequate standard of living for the persons with disabilities and their families, including adequate food, clothing, housing, and continuous improvement of living conditions. The state shall also take appropriate steps to safeguard and promote the realization of this right without discrimination based on disability.⁵⁴ It further says that States Parties shall ensure social protection to persons with disabilities without discrimination based on disability. Also, the state shall take appropriate steps to safeguard and promote the realization of this right, including measures to ensure equal access by persons with disabilities to clean water

⁵² General Comments No. 15, UN Convention on the Rights of the Child, Together (Scottish Alliance for Children’s Rights), November 2013, Available at: <https://www.togetherscotland.org.uk/pdfs/General%20comment%20briefing%20final%20version.pdf> (visited on: September 12, 2018)

⁵³ The Convention on the Rights of Persons with Disabilities and its Optional Protocol (A/RES/61/106) was adopted on 13 December 2006 at the United Nations Headquarters in New York, and was opened for signature on 30 March 2007. There were 82 signatories to the Convention, 44 signatories to the Optional Protocol, and 1 ratification of the Convention. This is the highest number of signatories in history to a UN Convention on its opening day. It is the first comprehensive human rights treaty of the 21st century and is the first human rights convention to be open for signature by regional integration organizations. The Convention entered into force on 3 May 2008. Available on: <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html> (visited on: August 9, 2019)

⁵⁴ The Convention on the Rights of Persons with Disabilities, 2006, Art. 28 (1)

services and ensure access to appropriate and affordable services, devices, and other assistance for disability-related needs.⁵⁵

Disabled people are a part of every community, everywhere in the world. However, they are among the poorest, most marginalised and disadvantaged, and are often hidden. Nevertheless, there have been profound and positive changes in society's perception towards disabled people in recent years.⁵⁶

3.2 UNITED NATIONS RESOLUTIONS AND RIGHT TO SANITATION

Every year millions of people die from diseases associated with inadequate water supply, sanitation, and hygiene. In addition, inadequate sanitation adversely affects food security, livelihood choices, and educational opportunities for low-income families worldwide. Unfortunately, the right to safe water and adequate sanitation remains a promise unfulfilled for the world's poorest citizens. In 2010, 884 million people lacked access to improved water supply, and 2.6 billion people lacked access to improved sanitation worldwide. The problems responsible for poor sanitation were the lack of priority given to the sanitation sector. Moreover, lack of financial resources, a lack of sustainable water supply and sanitation services, poor sanitation practices, inadequate sanitation in public places, including hospitals, health centres, and schools was also major problems.⁵⁷

The importance of sanitation was diminished due to the political preference given to water. Designating water and sanitation as separate human rights provides an opportunity for governments, civil society, and other stakeholders to pay special attention to defining specific standards for the right to sanitation and, subsequently, the attainment of this right. Furthermore, separating the right to sanitation from the right to water recognizes that all sanitation options are not dependent on water-borne systems.

⁵⁵ The Convention on the Rights of Persons with Disabilities, 2006, Art. 28 (2) (e)

⁵⁶ ILO, 'The price of exclusion: the economic consequences of excluding people with disabilities from the world of work', 2009, Available at- http://www.ilo.org/wcmsp5/groups/public/ed_emp/ifp_skills/documents/publication/wcms_119305.pdf (visited on: August 10, 2019)

⁵⁷ WHO/UNICEF Joint Monitoring Programme for Water Supply and Sanitation: Progress on sanitation and drinking-water (2010). Available at: https://www.who.int/water_sanitation_health/publications/9789241563956/en/#:~:text=The%20latest%20report%20of%20the,for%20reaching%20the%20basic%20sanitation (visited on: July 23, 2019)

The International Covenant on Economic Social and Cultural Rights (ICESCR), 1966, was silent on sanitation rights. However, it was interpreted that Article 11 of the ICESCR covered many rights, including sanitation. In this context, in 2010, the United Nations Committee on Economic Social and Cultural Rights (CESCR) adopted the Statement on the Right to Sanitation.⁵⁸

The 2008 Declaration, as the International Year of Sanitation by the United Nations General Assembly, brought sanitation to international prominence. In the same year, the Human Rights Council created the mandate of the Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation. An effort to recognize a separate right to sanitation began with the initiative by the UN Special Rapporteur on the human right to safe drinking water and sanitation. The Special Rapporteur argued that sanitation is a distinct right because of its specific dignity dimensions and, therefore, should be treated as a distinct human right.⁵⁹ Hence, the authentic interpretation of the ICESCR by the CESCR, along with the series of resolutions adopted by both the United Nations General Assembly and Human Rights Council, recognized and reaffirmed the right to water and sanitation.

3.2.1 United Nations General Assembly Resolution on the Right to Water and Sanitation 2010⁶⁰

On 28 July 2010, the United Nations General Assembly, for the first time, formally recognised the right to water and sanitation as a human right by its resolution 64/292⁶¹ and declared that safe and clean drinking water and sanitation a human right essential to the full enjoyment of life and all other human rights. The resolution calls upon states and international organizations to help capacity-building and technology transfer to the countries, particularly the developing countries, to provide safe, clean, accessible, and affordable drinking water and sanitation for all.⁶²

⁵⁸ Cullet, Koonan *et al.* (ed.), 'The Right to Sanitation in India', (Oxford University Press, New Delhi, 2019)

⁵⁹ Catarina De Albuquerque, 'Realising the human rights to water and sanitation' (2014) Available at: https://www.ohchr.org/Documents/Issues/Water/Handbook/Book1_intro_.pdf (visited on: May 13, 2016)

⁶⁰ United Nations General Assembly Resolution of 64/292 (July 2010) (UN Doc. A/RES/64/292).

⁶¹ United Nations, Resolution on The Human Right to safe Drinking Water and Sanitation (2010) (UN Doc. A/RES/64/292)

⁶² United Nations General Assembly Resolution of 64/292 (July 2010) (UN Doc. A/RES/64/292).

3.2.2 United Nations Human Rights Council Resolution 15/9 on Human Rights and access to Safe Drinking Water and Sanitation (30 September 2010)⁶³

In 2010, the Human Rights Council (HRC) Resolution 15/9 reaffirmed the human right to water and sanitation. It effectively affirmed that the human rights to water and sanitation are legally binding because these rights are implicitly contained in the right to an adequate standard of living, enshrined under Article 11 of the International Covenant on Economic, Social, and Cultural Rights.⁶⁴ This resolution was adopted without a vote, with only the United Kingdom dissociating itself from the consensus.

The Resolution reaffirms that it shall be the primary responsibility of all States to fully realize human rights to safe drinking water and sanitation with their laws, regulations, and public policies. The states may also choose to include non-state actors in the provision of safe drinking water and sanitation services. That delegation of safe drinking water and sanitation services to a third party does not exempt the States from its human rights obligations. In this process, all States should ensure transparency, non-discrimination, and accountability.

3.2.3 UN Human Rights Council Resolution 16/2 on Human Right to Safe Drinking Water and Sanitation, 2011

On 24th April 2011, the Human Rights Council adopted access to safe drinking water and sanitation as a human right: a right to life and human dignity. This resolution reaffirms that the right to safe drinking water and sanitation is derived from the right to an adequate standard of living. Moreover, for the first time, it refers to the statement of the Committee on Economic, Social, and Cultural Rights recognizing the right to sanitation, which the Committee treats as a complement to the General Comment No. 15 of the committee on the right to water. This resolution was adopted

⁶³Resolution adopted by the Human Rights Council, 15/9 Human rights and access to safe drinking water and sanitation, 30 September 2010. (UN Doc. A/HRC/RES/15/9)

⁶⁴*ibid*

without a vote, with only the United Kingdom dissociating itself from the consensus.⁶⁵

The resolution decided to extend the mandate of the current mandate holder as a special rapporteur on the human right to safe drinking water and sanitation for three years. It encouraged the Special Rapporteur to follow the criteria of availability, quality, physical accessibility, affordability, and acceptability. Also, to monitor how the human right to safe drinking water and sanitation is being realized throughout the world.⁶⁶

3.2.4 UN Human Rights Council Resolution 18/1 on Human Rights to Safe Drinking Water and Sanitation (28 September, 2011)

The resolution⁶⁷ reaffirmed that the right to safe drinking water and sanitation is derived from the right to an adequate standard of living. This resolution was adopted without a vote. The United Kingdom, which was not an HRC member in September 2011, made a statement specifying that it did not recognize the right to sanitation.

The resolution also reaffirmed that states have the primary responsibility to ensure the full realization of all human rights and must take steps to achieve progressively the full realization of the right to safe drinking water and sanitation by all appropriate means. It also reaffirms the important role that national plans of action can play as tools for promoting and protecting human rights.

3.2.5 United Nations General Assembly resolution 67/291 on ‘Sanitation for All’ (July 2013)

The resolution, entitled, ‘Sanitation for All,’ was adopted on 24 July, 2013.⁶⁸ Through this resolution, the United Nations General Assembly declared 19 November as **World Toilet Day** to raise awareness to tackle the global sanitation crisis and achieve Sustainable Development Goal (SDG) 6, which promises sanitation for all by

⁶⁵ The Resolution and Decision adopted by the Human Rights Council, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Report of the Council on its Sixteenth Session, 2011, (A/HRC/16/2)

⁶⁶ The UN Council Resolution, The Human Right to Safe Drinking Water and Sanitation, 2011, (A/HRC/16/2)

⁶⁷ UN Human Rights Council resolution, (2011). (UN Doc. A/HRC/RES/18/1)

⁶⁸ The United Nations General Assembly Resolution on ‘Sanitation for All’ (2013). (UN Doc. A/RES/67/291)

2030. According to the UN, the theme for World Toilet Day 2019 was ‘Leaving No One Behind.’ In this resolution, the General Assembly encouraged all member states and the UN system and international organizations and other stakeholder organizations to encourage behaviour change. The General Assembly called for an end to the practice of open defecation, which they considered extremely harmful to public health and encouraged to implement policies to increase access to sanitation among the poor. Sanitation is also a question of basic dignity and women's safety, who, due to lack of access to toilets that offer privacy, are at risk of being raped and abused.⁶⁹

Along with this, the resolution also calls for countries to promote sanitation in the broader context that includes hygiene promotion, the provision of basic sanitation services, sewerage and wastewater treatment and reuse in the context of integrated water management.⁷⁰

3.2.6 United Nations General Assembly Resolution 68/157 on Human Rights to Safe Drinking Water and Sanitation (18 December 2013)

It was the first resolution in which all UN Member affirmed that the human right to safe drinking water and sanitation is legally binding in international legal framework. The resolution ratified the content of all resolutions by the Human Rights Council from 2010 onwards, which specify that the right to an adequate standard of living include the human right to safe drinking water and sanitation.

Unfortunately, as a result of United States pressure, the resolution's main sponsors, Germany and Spain, removed a paragraph from the final draft that outlined the content of the rights, which had previously been adopted.⁷¹

3.2.7 United Nations Human Rights Council Resolution 27/7 (25 September 2014)

This resolution provide full definition of the human rights to safe drinking water and sanitation under its Preamble (paragraph 21). The definition includes the

⁶⁹ United nations world Toilet Day, 19th November, Available at: <https://www.un.org/en/events/toiletday/background.html> (visited on: September 19, 2018)

⁷⁰ The United Nations General Assembly Resolution, on ‘Sanitation for All,’ (2013). (UN Doc. A/RES/67/291)

⁷¹The human right to safe drinking water and sanitation resolution adopted by the General Assembly in Sixty-eighth session on 18 December 2013, (UN Doc. A/RES/68/157).

terms ‘socially’ and ‘culturally’ under the content category ‘acceptability.’ It also reaffirmed that the human right to safe drinking water and sanitation entitled everyone **sufficient, safe, acceptable, physically accessible, and affordable** water and sanitation. However, the USA dissociated itself from the consensus in the paragraph 21 of the preamble.⁷²

3.2.8 United Nations General Assembly Resolution 70/1- Transforming our world: the 2030 Agenda for Sustainable Development (25 September 2015)

The General Assembly Adopts the following outcome document of the United Nations summit for the adoption of the post-2015 development agenda:⁷³

1. By 2030, achieve universal and equitable access to safe and affordable drinking water for all.
2. By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to women and girls' needs and those in vulnerable situations.
3. By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally.
4. By 2030, 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.
5. By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate.
6. By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes.
 - a. By 2030, expand international cooperation and capacity-building support to developing countries in water and sanitation-related

⁷² United Nations General Assembly Resolution 27/7, The human right to safe drinking water and sanitation, 2014. (UN Doc. A/HRC/27/L.11/Rev.1)

⁷³ Resolution 70/1 on Transforming our world: the 2030 Agenda for Sustainable Development adopted by the General Assembly on 25 September 2015 [without reference to a Main Committee] in United Nations General Assembly Seventieth session. (UN Doc. A/70/L.1)

activities and programs, including water harvesting, desalination, water efficiency, wastewater treatment, recycling, and reuse technologies

- b. Support and strengthen the participation of local communities in improving water and sanitation management.

3.2.9 United Nations General Assembly Resolution 70/169- The Human Rights to Safe Drinking Water and Sanitation (17 December 2015)

The UN General Assembly resolution 70/169⁷⁴ on the human rights to water and sanitation was passed and adopted in December 2015 by consensus.⁷⁵ This resolution recognizes the distinction between the human right to water and sanitation, which is a fundamentally important step in recognition of the prioritisation of sanitation. It is now official that everyone has the human rights to water and sanitation.⁷⁶ The text was adopted by consensus, so all UN Member State have now agreed the following:

‘Recognition of the right to water and the right to sanitation as distinct rights. They remain related, and both are derived from the right to an adequate standard of living. The ‘plural’ brings much needed clarification and prioritization of sanitation. Both rights bring clear entitlements.’ The UN member States have recognized this as follows:

1. *“to have access to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use”.*
2. *“to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, and socially and culturally acceptable, and that provides privacy and ensures dignity.”*

The resolution also highlights the gender-specific impacts of inadequate water and sanitation services. In particular, the reinforcement of widespread stigma associated with menstruation, when water and sanitation services are

⁷⁴ United Nations General Assembly Resolution 70/169 on the human rights to safe drinking water and sanitation adopted on 17 December 2015. (UN Doc A/70/489/Add.2).

⁷⁵ Resolutions of General Assembly of the United Nations. Available at: <https://www.un.org/en/ga/70/resolutions.shtml> (visited on: September 11, 2018)

⁷⁶ End Water Poverty: Resolution on Human Right to Water and Sanitation. Available at: <https://www.endwaterpoverty.org/news/human-rights-water-and-sanitation-resolution-passed> (visited on: September 11, 2018)

inadequate, and its effects on other human rights, such as the right to education for girls.

3.2.10 United Nations Human Rights Council Resolution 33/10-The human rights to safe drinking water and sanitation (29 September 2016)

The Human Rights Council resolution 33/10,⁷⁷ affirmed the importance of national programmes and policies in ensuring the progressive realization of the human rights to safe drinking water and sanitation. Also, the importance of regional and international technical cooperation. The resolution expressed concern that, despite all efforts, gender inequality still exists in the realization of human rights to safe drinking water and sanitation. It called on states to identify all laws that have both direct and indirect discriminatory consequences for the equal enjoyment of the human rights to safe drinking water and sanitation, and gender-based violence. Moreover, to develop water, sanitation and hygiene approaches, programmes and policies that enable the meaningful participation of women and girls at all stages of planning, decision-making, implementation, monitoring and evaluation. India has also voted in favour of this resolution.⁷⁸

3.3 THE RIGHT TO SANITATION UNDER WATER, ENVIRONMENT AND HEALTH INSTRUMENTS

This section includes some other legal instruments that contribute in developing a regulatory framework for sanitation and highlights its other key dimensions also. The first dimension is water, because water and sanitation are often considered as two sides of the same coin. Over the past several decades, ever-growing demands for the use and misuse of water resources have increased the risks of pollution and severe water stress in many parts of the world. The frequency and intensity of local water crises have been increasing, with serious implications for public health, environmental sustainability, food, and energy security, and economic development. At the international level, environmental law instruments have included sanitation aspects within their purview, most of these instruments are soft law instruments. Regarding health dimension, the drive for recognition of the human right

⁷⁷United Nations Human Rights Council Resolution 33/10 on the human rights to safe drinking water and sanitation (29 September 2016)(UN Doc A/HRC/RES/33/10)

⁷⁸*ibid*

to sanitation has primarily come from development and health practitioners. The link with sanitation is well-known, but there are relatively few binding legal instruments that specifically address sanitation.⁷⁹

3.3.1 Legal Instruments Related To Water and the Right to Sanitation

The link between water and sanitation is, in fact, the most well-established link between sanitation and other sectors. Water and sanitation were referred to as ‘human right,’ not ‘human rights,’ in all the legal instruments cited above. This suggested that sanitation is conceived as a co-right with water, and water quality largely depends on the sanitation. Easy access to adequate sanitation and sufficient amounts of safe water for drinking and hygiene at home, schools, and health care facilities is essential to human health and well-being and should be a prerequisite for a decent life in the 21st century.⁸⁰ The connection between water and sanitation is clear that, without proper sanitation, human excreta contaminates drinking water source, affecting water quality and leading to disastrous health consequences. Water is further linked to sanitation because waterborne sewerage systems are common in many parts of the world. Diseases related to inadequate water, sanitation, and hygiene (WASH) include diarrhoea and other disease outcomes, such as hepatitis A, legionellosis, and soil-transmitted helminth infections.⁸¹ The water related instruments which somehow related to sanitation are given below:

- **United Nations Conference on Water (Mar del Plata Action Plan, 1977)**

The United Nations Conference on the water was held in Mar del Plata (Argentina) from 14 to 25 March 1977. It is also known as Mar del Plata Action Plan, 1977. The objective of the Plan was to focus on the need for immediate action to reduce the urgency of the water crisis and identify strategies for wiser and more efficient use of the earth fixed stocks of water.⁸² The Mar del Plata Conference was undoubtedly a major milestone in the history of water resources development for the 20th century. However, the importance of water was further raised when the

⁷⁹ Philippe Cullet and Lovleen Bhullar, ‘*Sanitation Law and Policy in India*’, (Oxford University Press, ed. 1, New Delhi, 2015)

⁸⁰ *ibid*

⁸¹ World Health Organization- Water and Sanitation. Available at: <http://www.euro.who.int/en/health-topics/environment-and-health/water-and-sanitation/water-and-sanitation> (visited on: July 30, 2018)

⁸² Report of the United Nations Water Conference, Mar Del Plata 1977, New York, Available at: https://www.internationalwaterlaw.org/bibliography/UN/Mar_del_Plata_Report.pdf (visited on: July 30, 2018)

conference recommended the period from 1981 to 1990 as the International Drinking Water Supply and Sanitation Decade to provide potable water and sanitation facilities to all and to accelerate political will and investment in the water sector.⁸³

- **The Dublin Statement on Water and Sustainable Development, 1992 (International Conference on Water and the Environment (ICWE), Dublin, 1992)**

The International Conference on Water and the Environment (ICWE) was held in Dublin, Ireland, from 26 to 31 January 1992.⁸⁴ The Conference called for the adoption of innovative approaches for the assessment, development, and management of freshwater resources in need of the commitment of the International Community and decision-makers at all levels. The commitment will need to be supported by substantial and immediate investments, public awareness campaigns, legislative and institutional changes, technology development, and capacity building programs. In appreciation of this Dublin statement to world leaders, gathered at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro in June 1992, the participants of the conference asked all governments to carefully study specific activities and means of implementation recommended into the conference reports and to translate those recommendations into immediate action programs for water and sustainable development. The Conference Report sets out recommendations for action at local, national, and international levels, based on four guiding principles.⁸⁵

The guiding principle no. 4 says that it is vital to recognize first the basic right of all human beings to have access to clean water and sanitation at an affordable price. Past failure to recognize the economic value of water has led to wasteful and environmentally damaging uses of the resource. Managing water as an economic good is an important way of achieving efficient and equitable use and of encouraging

⁸³ United Nations Conference on Water (Mar del Plata 1977), available at: https://www.who.int/water_sanitation_health/unconfwater.pdf (visited on: July 30, 2018)

⁸⁴ The Dublin Statement on Water and Sustainable Development, 1992, Available at: <http://www.wmo.int/pages/prog/hwrp/documents/english/icwedece.html> (visited on: March 09, 2019)

⁸⁵ Dublin Rio Principle, Global Water Partnership, Available at: <https://www.gwp.org/contentassets/05190d0c938f47d1b254d6606ec6bb04/dublin-rio-principles.pdf> (visited on: March 09, 2019)

conservation and protection of water resources.⁸⁶ The Conference recommends that priority be given in water resources development and management to the accelerated provision of food, water, and sanitation to these unserved millions.⁸⁷

3.3.2 Legal Instruments Related To Environmental And Right To Sanitation

The global concern about environmental issues was first seriously discussed as late as 1972 at the Stockholm Conference. However, there was no serious follow up taken regarding the environment. Nearly eleven years after the Stockholm Conference, the World Commission on Environment and Development was established in 1980. It is also known as the Brundtland Commission.⁸⁸ This Commission, in its historical document “Our Common Future” (1987), suggested the concept of “Sustainable Development” and called upon all nations to address the issues of the environment while implementing development programs.⁸⁹ Following the acceptance of the Brundtland Commission Report by the United Nations General Assembly, many international institutions made fundamental commitments for sustainable development. It was followed by The Rio Earth Summit, 1992, in which far-reaching program of sustainable development was adopted. The Rio Summit resolved to fix targets, draw time-tables, and name partnerships to speedily increase access to clean water, sanitation, adequate shelter, food security, and the protection of biodiversity. The Summit also addressed poverty–alleviation measures, especially the adequate provision of water, sanitation, and healthcare facilities to disadvantaged people without easy access to the basic minimum needs of life.

⁸⁶ International Conference on Water and the Environment: Development issue for 21st Century, The Dublin Statement and Report of the Conference-1992, Available at: <https://www.ircwash.org/sites/default/files/71-ICWE92-9739.pdf> (visited on: March 09, 2019)

⁸⁷ International Conference on Water and the Environment (ICWE), Dublin, 1992 (visited on: March 09, 2019)

⁸⁸ In 1980s the UN set up the Commission on Environment and Development, also known as the Brundtland Commission, named after its Chair Gro Harlem Brundtland. The outcome of the Brundtland Commission was a comprehensive document entitled “Our Common Future”, otherwise known as the Brundtland Report. This report framed much of what would become the 40 chapters of Agenda 21 and the 27 principles of the Rio Declaration on Environment and Development. The report defined sustainable development as development which: “meets the needs of the present generation without compromising the ability of future generations to meet their own needs.”

⁸⁹ Brundtland, G., Report of the World Commission on Environment and Development: Our Common Future, (1987). United Nations General Assembly Document A/42/427. Available at: <https://sustainabledevelopment.un.org/content/documents/5987our-common-future.pdf> (visited on: May 25, 2019)

- **UN Conference on Environment and Development- Agenda 21, 1992**

Agenda 21 is a comprehensive plan of action adopted by the United Nations system, governments, and major groups at the global, national, and local levels in every region where there is a human impact on the environment. More than 178 Governments adopted agenda 21, the Rio Declaration on Environment and Development, and the Statement of principles for the Sustainable Management of Forests at the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro, Brazil, from 3rd to 14th June 1992. It is a non-binding action plan of the United Nations about sustainable development. The “21” in Agenda 21 refers to the 21st century. Its aim was to achieve global sustainable development goal. One major objective of the Agenda 21 was that every local government should draw its own local Agenda 21.⁹⁰

In the draft of Agenda 21, there are few chapters in which provisions related to sanitation has been provided. Chapter 3 provides that the Governments, with the assistance of and in cooperation with appropriate international, non-governmental, and local community organizations, should establish measures that will directly or indirectly provide the poor access to fresh water and sanitation.⁹¹ Chapter 6 says that the health of the people is depends on a healthy environment, including the provision of a safe water supply and sanitation and the promotion of a safe food supply and proper nutrition. Particular attention should be directed towards food safety, eliminating food contamination, comprehensive and sustainable safe drinking water and sanitation to preclude both microbial and chemical contamination, and promotion of health education, immunization.⁹² Chapter 7 provides the sustainability of urban development, defined many parameters relating to the availability of water supplies, air quality, and the provision of environmental infrastructure for sanitation and waste management.⁹³ Chapter 18 says that safe water-supplies and environmental sanitation are vital for protecting the environment, improving health, and alleviating poverty. An estimated 80 percent of all diseases and over one-third of deaths in developing

⁹⁰ United Nations Sustainable Development, Agenda 21- United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992 available at: <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf> (visited on: September 12, 2019)

⁹¹ Chapter 3- Combating poverty, para 3.8 of Agenda 21

⁹² Chapter 6 - Protecting and Promoting Human Health, para 6.3 of Agenda 21.

⁹³ Chapter 7- Promoting Sustainable Human Settlement Development, para 7.35 of Agenda 21.

countries are caused by the consumption of contaminated water. On average, as much as one-tenth of each person's productive time is sacrificed to water-related diseases.⁹⁴

The problem related to the waste was progressively increasing. That is why Chapter 21 deals with sewage and solid waste management issues, which is environmentally sound.⁹⁵ The chapter laid down some objectives, which the government should fulfil. Those objectives were:⁹⁶

- By the year 1995, in industrialized countries, and by the year 2005, in developing countries, ensure that at least 50 percent of all sewage, wastewaters, and solid wastes are treated or disposed of in conformity with national or international environmental and health quality guidelines;
- By 2025, dispose of all sewage, wastewaters, and solid wastes according to national or international environmental quality guidelines.

The chapter further says that over 2.0 billion people will be without access to basic sanitation by the end of the century. An estimated half of the urban population in developing countries will be without adequate solid waste disposal services. As many as 5.2 million people, including 4 million children under five years of age, die each year from waste-related diseases. The health impacts are particularly severe for the urban poor. However, the health and environmental impacts due to inadequate waste management go beyond the unserved settlements themselves and result in water, land, and air contamination and pollution over a wider area. Extending and improving waste collection and safe disposal services are crucial to gaining control over this form of pollution.⁹⁷

The overall objective of this programme is to provide health-protecting, environmentally safe waste collection and disposal services to all people. Therefore, governments, according to their capacities and available resources and with the

⁹⁴ Chapter 18- Protection of The Quality and Supply of Freshwater Resources: Application of Integrated Approaches to The Development, Management and Use of Water Resources, para 18.47 of Agenda 21

⁹⁵ Chapter 21- Environmentally Sound Management of Solid Wastes and Sewage-Related Issues, para 21.28 of Agenda 21

⁹⁶ *Ibid*, para 21.29

⁹⁷ *ibid*, para 21.38

cooperation of the United Nations and other relevant organizations, as appropriate, should:⁹⁸

- a. By the year 2000, have the necessary technical, financial, and human resource capacity to provide waste collection services commensurate with needs;
- b. By the year 2025, provide all urban populations with adequate waste services;
- c. By 2025, ensure that full urban waste service coverage is maintained and sanitation coverage is achieved in all rural areas.

- **World Summit on Sustainable Development- Johannesburg Declaration, 2002**⁹⁹

The World Summit on Sustainable Development (WSSD), also known as Earth Summit II or Rio +10, was organised by the United Nations after ten years of the first Earth Summit in Rio de Janeiro to develop consensus on sustainable development. Rio+10 affirmed UN commitment to Agenda 21, alongside the Millennium Development Goals. The World Summit on Sustainable Development brought together the heads of the States and Governments, national delegates, and leaders from non-governmental organizations (NGOs), businesses, and other major groups. The main focus of WSSD was to improve people's lives and conserve natural resources in the world. In its commitment, the WSSD focuses on the indivisibility of human dignity and speedily increases access to basic requirements such as clean water, sanitation, adequate shelter, energy, health care, food security, and biodiversity protection.' Also, helping each other to ensure access to financial resources, opening up markets, capacity building, using modern technology to bring about development, technology transfer, human resource development, education, and training away from underdevelopment.¹⁰⁰

The most important success of the WSSD was to adopt a new basic sanitation target for halving the proportion of people unable to reach safe drinking water or basic sanitation by 2015. However, a few powerful countries opposed this achievable target

⁹⁸ *Supra*, para 21.39

⁹⁹ Report of the world Summit on sustainable Development, Johannesburg, South Africa, 26 August- 4 September 2002, UN Doc. A/CONF.199/20 (visited on: September 15, 2019)

¹⁰⁰ The Johannesburg Declaration on Sustainable Development, 4 September 2002. Available at: https://ec.europa.eu/environment/archives/wssd/documents/wssd_pol_declaration.pdf (visited on: October 15, 2019)

throughout most of the negotiations, giving the impression that the health of millions was being held hostage to gain a political advantage over another set of negotiations, in particular, that of the negotiations on targets for renewable energy. While no evidence exists of a trade-off between these issues, the perception that such a trade-off was being considered became a source of cynicism. It tainted the achievement of the sanitation target.

- **‘The Future We Want,’ an Outcome document of the United Nations Conference on Sustainable Development (Rio +20), June 2012**

The Rio+20, or United Nations Conference on Sustainable Development, held in Rio de Janeiro in 2012, was the third international conference on sustainable development. It is also known as Rio 2012 or Earth Summit 2012. The Rio+20 reaffirmed the commitment to Agenda 21.

The Rio+20 reaffirmed the commitments regarding the human right to safe drinking water and sanitation. It also highlighted the commitment to the 2005-2015 International Decade for Action, Water for Life. The UN General Assembly endorsed the outcome document in resolution,¹⁰¹ adopted without a vote. All 193 UN Member States agreed to the document. This was the first United Nations declaration in which all UN Member States recognized the rights to water and sanitation. In the negotiations of this document, Canada, a leading opponent of these rights, agreed to move forward to recognise the human right to safe drinking water and basic sanitation. The resolution is as follow:

Water and sanitation¹⁰²

119. We recognize that water is at the core of sustainable development as it is closely linked to several key global challenges. We, therefore, reiterate the importance of integrating water into sustainable development and underline the critical importance of water and sanitation within the three dimensions of sustainable development.

¹⁰¹ The Future We Want-Resolution A/RES/66/288 adopted by the United Nations General Assembly on 27 July 2012, Sixty-sixth session, Available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_66_288.pdf (visited on: October 15, 2019)

¹⁰² The Future We Want - Outcome document of the United Nations Conference on Sustainable Development Rio de Janeiro, Brazil, 20–22 June 2012 Available at: <https://sustainabledevelopment.un.org/content/documents/733FutureWeWant.pdf> (visited on: October 15, 2019)

120. We reaffirm the commitments made in the Johannesburg Plan of Implementation and the Millennium Declaration regarding halving by 2015 the proportion of people without access to safe drinking water and basic sanitation and the development of integrated water resource management and water efficiency plans ensuring sustainable water use. Furthermore, we commit to the progressive realization of access to safe and affordable drinking water and basic sanitation for all, as necessary for poverty eradication, women's empowerment, protecting human health, and significantly improving the implementation of integrated water resource management at all levels as appropriate. In this regard, we reiterate the commitments to support these efforts, particularly for developing countries, through the mobilization of resources from all sources, capacity-building, and technology transfer.

121. We reaffirm our commitments regarding the human right to safe drinking water and sanitation, progressively realizing for our populations, with full respect for national sovereignty. We also highlight our commitment to the International Decade for Action, "Water for Life," 2005–2015.

122. We recognize ecosystems key role in maintaining water quantity and quality and support actions within respective national boundaries to protect and sustainably manage these ecosystems.

123. We underline the need to adopt measures to address floods, droughts, and water scarcity, addressing the balance between water supply and demand, including, where appropriate, non-conventional water resources. And financial resources and investment in infrastructure for water and sanitation services, as per national priorities.

124. We stress the need to adopt measures to significantly reduce water pollution and increase water quality, significantly improve wastewater treatment and water efficiency and reduce water losses. To achieve this, we stress the need for international assistance and cooperation.

3.3.3 Legal Instruments Related to the Health and Right to Sanitation

The link between access to sanitation and health is well documented. Ill health is associated with unsafe water, poor sanitation, and poor management of water resources and systems. For example, most diarrhoeal disease in the world is attributable to unsafe water, sanitation and hygiene. In 2002, diarrhoea attributable to

these three factors caused approximately 2.7 percent of deaths (1.5 million) worldwide.¹⁰³ International treaties also specifically recognize the link between sanitation and the right to health. For example, article 12 on the ICESCR, recognize physical and mental health by improvement of all aspect of environmental and industrial hygiene. Besides, general comment 14 of the CESCR explained that the right to health is an inclusive right extending to timely and appropriate health care and the underlying determinants of health, such as access to safe and potable water and adequate sanitation.¹⁰⁴ The main legal instrument that links health and sanitation was adopted within the UN Economic Commission for Europe. Another legal instrument that links health with sanitation is as follows:

- **World Health Assembly Resolution 64/24- Right to Safe and Clean Drinking-Water and Sanitation (24 May 2011)**¹⁰⁵

The World Health Organization’s supreme decision-making body, the World Health Assembly, adopted a resolution on 24th May 2011. The resolution includes water and sanitation as human rights. It the Member States “to ensure that national health strategies contribute to the realization of water and sanitation-related Millennium Development Goals while coming in support to the progressive realization of the human right to water and sanitation.”

The preamble of the resolution includes the United Nations General Assembly resolution 64/292, in which the right to safe and clean drinking water and sanitation was recognized as a human right, i.e., essential for the full enjoyment of life and all human rights. The preamble further included the Human Rights Council resolution 15/9, which affirms that the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living and the right to life and human dignity.

This resolution was adopted without a vote. However, the United Kingdom distanced itself from the reference to the right to water and sanitation in the resolution,

¹⁰³ Office of the United Nations High Commissioner for Human Rights (UNHCHR), Fact Sheet No. 31- Right to Health, WHO. Available at: <https://www.ohchr.org/Documents/Publications/Factsheet31.pdf> (visited on: November 14, 2019)

¹⁰⁴ CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Article 12 of the ICESCR), 2000, UN Doc. E/C.12/2000/4. (Visited on: November 15, 2019)

¹⁰⁵ Sixty Fourth World Health Assembly resolution 64/24, Geneva, (16- 24 May 2011)

stating that it recognized water as an element within the right to an adequate standard of living and inadequate sanitation undermines the protection of human rights.

- **United Nations Economic Commission for Europe- Protocol on Water and Health, 1999**

Adequate sanitation sufficiently protects human health and the environment. Keeping that in mind, the Protocol on Water and Health was adopted on 17 June 1999 on the occasion of the Third Ministerial Conference on Environment and Health held in London from 16 to 18 June 1999 and entered into force in 2005.¹⁰⁶ The Protocol is the first international agreement of its kind, which was explicitly adopted to attain an adequate supply of safe drinking water and adequate sanitation for everyone and effectively protect water used as a source of drinking water. The Protocol is legally binding for the ratifying countries. The main aim of the Protocol is to protect human health and well-being by better water management, including the protection of water ecosystems, and by preventing, controlling, and reducing water-related diseases.

The Protocol defined sanitation as ‘means the collection, transport, treatment, and disposal or reuse of human excreta or domestic wastewater, whether through collective systems or by installations serving a single household or undertaking.’¹⁰⁷ For this purpose, the protocol mandated that every State party take all appropriate measures to ensure adequate sanitation of a standard that sufficiently protects human health and the environment. This shall, in particular, be done through the establishment, improvement, and maintenance of collective systems.¹⁰⁸ The protocol further provided that, to achieve the objective of this Protocol, the Parties shall pursue the aims of:¹⁰⁹

- a) Access to drinking water for everyone, and
- b) Provision of sanitation for everyone.

In doing all this, they shall make appropriate practical and/or other provisions for public participation within a transparent and fair framework and ensure that due account is taken of the outcome of the public participation. Except, where national or

¹⁰⁶ UNECE-WHO The Europe Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes, London, 17 June 1999.

¹⁰⁷ The Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1999. Art 2 (8).

¹⁰⁸ *ibid.* Article 4 (2) (b)

¹⁰⁹ *ibid.* Article 6 (1)

local circumstances make them irrelevant for preventing, controlling, and reducing water-related disease, the targets shall cover, among other things:¹¹⁰

- d) The area of territory, or the population sizes or proportions, which should be served by collective systems of sanitation or where sanitation by other means should be improved;
- e) The levels of performance to be achieved by such collective systems and by such other means of water supply and sanitation, respectively;
- f) The application of recognized good practice to the management of water supply and sanitation, including the protection of waters used as sources for drinking water.
- g) The occurrence of discharges of:
 - i. Untreated waste water, and
 - ii. Untreated storm-water overflows from waste-water collection systems to waters within the scope of this protocol.
- h) The quality of discharges of wastewater from waste-water treatment installations to waters within the scope of this protocol;
- i) The disposal or reuse of sewage sludge from collective sanitation systems or other sanitation installations and the quality of wastewater used for irrigation purposes, taking into account the Guidelines for the safe use of wastewater and excreta in agriculture and aquaculture of the World Health Organization (WHO) and the United Nations Environment Programme (UNEP).

3.4 SANITATION IN NATIONAL LAWS AND POLICIES

International human rights legal instruments guide states to develop measures to achieve the right to water and sanitation in their respective territories. All States are legally bound under international law to comply with international human rights treaties that they have ratified. Some States have made international treaties binding in their statutes or have integrated the relevant rights and State obligations into their

¹¹⁰ The Convention on the Protection and Use of Transboundary Watercourses and International Lakes, 1999. Article 6 (2)

constitution. However, national provisions may differ from international provisions.¹¹¹

The national governments (mostly developing countries) have increasingly recognized the right to water and sanitation in their constitutions and laws. Since 2010, several countries have updated their legal frameworks to reflect water and sanitation as human rights. For example, Costa Rica, Egypt, Fiji, Kenya, Mexico, Morocco, Niger, Slovenia, Somalia, Tunisia, and Zimbabwe have new constitutional provisions recognizing the human right to water, sanitation, or both. Further, countries such as Bolivia,¹¹² Congo,¹¹³ Ecuador,¹¹⁴ Uruguay,¹¹⁵ Kenya,¹¹⁶ Maldives,¹¹⁷ South Africa,¹¹⁸ Ethiopia,¹¹⁹ Iran,¹²⁰ Panama¹²¹ also incorporated sanitation rights under their Constitutions.

Australia, Nepal, Algeria, Brazil, France, and Togo have passed legislation in this regard joining the club of many other countries that already recognized those rights in their national legislation.¹²² In addition, some countries like Ghana, Nepal, Bangladesh, etc., provide sanitation in their national policy instruments. Furthermore, the right to sanitation has also been regularly included in regional political declarations such as those from the South Asian Conference on Sanitation (SACOSAN) (in 2008, 2011, and 2014), African Conference on Sanitation and

¹¹¹ Pedi Obani and Joyeeta Gupta, 'The evolution of the right to water and sanitation: differentiating the implications,' 24 (1), *Review of European, Comparative & International Environmental Law*, pp 27-39 (2015)

¹¹² The New Constitution of Bolivia, 2009. Art. 20

¹¹³ The Constitution of the Democratic Republic of Congo, 2005

¹¹⁴ The Constitution of the Republic of Ecuador, 2008. Art. 66(2)

¹¹⁵ The Constitution of the Republic of Uruguay, 1967 (as last amended 31 October 2004). Art. 47

¹¹⁶ The Constitution of Kenya, 2010. Art. 43(1)(b)

¹¹⁷ The Constitution of the Republic of the Maldives, 2008. Art. 23(f)

¹¹⁸ The Constitution of South Africa, 1996 (as last amended by Amendment Act No. 3 of 2003). Art. 27

¹¹⁹ The Constitution of the Federal Republic of Ethiopia, 1994. Art. 92

¹²⁰ The Constitution of the Islamic Republic of Iran, 1979. Art. 43

¹²¹ The National Constitution of Panama. Art. 106

¹²² Léo Heller, 'Statement by the Special Rapporteur on the human rights to safe drinking water and sanitation on 10th anniversary of the recognition of water and sanitation as a human right by the General Assembly (28 July 2020) available at: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26116&LangID=E#_ftn2 (visited on: August 02, 2020)

Hygiene (AfricaSan) (2015), and Latin American Sanitation Conference (LatinoSan) (in 2013 and 2016).¹²³

In addition, the laws of many countries include specific government obligations to ensure sanitation and hygiene, for example, Armenia, Colombia, Ecuador, Finland, France, Indonesia, Iran, Madagascar, Mauritania, Mozambique, Spain, Sweden, Ukraine, and the United Kingdom. In addition, the directive on urban wastewater at the European Union level makes it obligatory for all 27 Member States to have proper sanitation systems in all urban areas.¹²⁴

Courts have also issued decisions that reflect UN General Assembly's decision to recognize water and sanitation as human rights. For example, a court of appeal in Botswana, in the case of **Mosetlhanyane and Others vs. Attorney General of Botswana**,¹²⁵ affirmed that water is a human right strongly linked to the rights to health and life. Further, Courts in various countries such as South Africa, Bangladesh, and India have also recognized the right and held that access to sanitation is part of the right to life. In India, in the case of **Municipal Council, Ratlam vs. Shri Vardhichand & Others**,¹²⁶ the Supreme Court of India addressed severely unsanitary conditions in the municipality of Ratlam. As a result of the municipality's failure to provide any sanitary facilities on the roads or public conveniences for slum dwellers, people living in informal settlements were using the road for that purpose. The open sewage situation was even worsened by a distillery discharging bad-smelling fluids into the street. The court, therefore, ordered the municipality to shift its priorities towards providing sanitary facilities and public health measures, including the construction of sufficient numbers of public toilets. In South Africa, **Grootboom vs. Government of the Republic of South Africa**,¹²⁷ the court ordered the government to provide essential water and sanitation services to the Grootboom community. In Kenya, in the case of **Ibrahim Sangor Osman vs. Minister of State for Provincial**

¹²³ Malcolm Langford, Jamie Bartram *et al.*, 'The Human Right to Sanitation,' pp 345-395. Available at: <https://www.cambridge.org/core/terms>. (visited on: August 12, 2019)

¹²⁴ WASH United, Freshwater Action Network (FAN Global), Water Lex, 'The human right to safe drinking water and sanitation in law and policy (2012). Available at: www.righttowater.info (visited on: July 27, 2019)

¹²⁵ Civil Appeal No. CACLB-074-10 (2011.01.27)

¹²⁶ AIR 1980 SC 1622

¹²⁷ (CCT11/00) 2000 (3) BCLR 277

Administration & Internal Security eKLR,¹²⁸ the High Court of Kenya held that the State has the duty to address the needs of vulnerable groups within society. The Court further held that every person is entitled to the fundamental rights to accessible and adequate housing and to reasonable standards of sanitation, health care, clean and safe water in adequate quantities and education' as guaranteed by Article 43 of the Constitution of Kenya.¹²⁹

Adequate legislation is needed for the national implementation of human rights to water and sanitation. Courts serve to reflect this in society and autonomous regulatory bodies, which ensure that water and sanitation services are provided in compliance with the human rights framework. Furthermore, given the increasing trend of adjudicating these socio-economic rights, judicial remedies are an essential tool to hold states and other actors accountable for violations of the right to water and sanitation.

3.5 DEVELOPMENT GOALS AND SANITATION: MILLENNIUM DEVELOPMENT GOAL AND SUSTAINABLE DEVELOPMENT GOAL

The United Nations Millennium Declaration was signed in September 2000. It was a declaration committed to world leaders to tackle poverty, hunger, disease, illiteracy, environmental degradation, and discrimination against women. The United Nations Millennium Development Goal (MDGs) were derived from this Declaration. There were eight goals that the UN Member States had agreed to achieve by 2015. The campaign, adopted by 189 UN member states.¹³⁰

Target 7.C of the Millennium Development Goal set an international target for sanitation to halve the proportion of people living without access to basic sanitation by 2015. Its aim was to halve the number of people living without sustainable access to safe water and basic sanitation, including hygiene. However, amongst all the MDG targets, the sanitation target remains one of the most off-track. Between 1990 and 2015, 2.6 billion people gained access to improved drinking water sources.

¹²⁸EKLR [2011] High Court (Embu) Constitutional Petition no 2 of 2011

¹²⁹ WASH United, *The Human Rights To Water And Sanitation In Courts Worldwide: A Selection of National, Regional And International Case Law*, p.38 (WaterLex, 2014).

¹³⁰ Weststrate, Dijkstra, *et al.*, *The Sustainable Development Goal on Water and Sanitation: Learning from the Millennium Development Goals*, 143, *Soc Indic Res*, pp.795–810 (2019)

Worldwide, 2.1 billion people have gained access to improved sanitation. The target acknowledges that the world has met the target of halving the proportion of people without access to improved water sources five years ahead of schedule. However, the target also identifies the areas that need further development and improvement. Despite progress, 2.4 billion were still using unimproved sanitation facilities, including 946 million people practicing open defecation.¹³¹

At current rates of progress, it will be missed globally by half a decade. In recognition of this crisis, the UN has declared 2008 the International Year of Sanitation and the Sustainable Sanitation: Five Year Drive to 2015¹³² to provide the necessary impulse to get the sanitation MDG back on track. This inspires numerous debates and conferences attended by ministers responsible for sanitation, which has greatly improved the recognition that lack of sanitation is an issue that undermines all development efforts.¹³³

Under the MDGs, the progress made in the sanitation sector in India remained inadequate (56% population with access to improved sanitation) despite the significant progress in the provision of drinking water (91% population with access to improved sources of drinking water), as of 2015. Regardless of the decrease in the population practicing OD from 564 million (JMP 2015) to 477 million (JMP 2017), India still has the largest number of people practicing OD. Despite India's huge budget for sanitation, these large numbers are the highest compared to the other developing nations.¹³⁴

The MDGs were succeeded by the Sustainable Development Goals (SDGs) for the 2016–2030 period. Although substantial progress was made under the MDGs, there was also a need to provide access to sanitation services, by 2030, to those who were left behind. In 2015, the United Nations (UN) had set an interconnected

¹³¹ World Health Organization & United Nations Children's Fund, Progress on Sanitation and Drinking Water: 2015 Update and MDG Assessment 5 (2015), available at: http://www.wssinfo.org/fileadmin/user_upload/resources/JMP-Update-report-2015_English.pdf (visited on: September 22, 2019)

¹³² UN Secretary-General launches the "Sustainable Sanitation: Five-Year Drive to 2015," UN News Release, 21 June 2011. Available at: <https://www.ircwash.org/news/sustainable-sanitation-un-secretary-general-launches-five-year-drive-2015> (visited on: January 12, 2020)

¹³³ Weststrate, Dijkstra, *et al.*, The Sustainable Development Goal on Water and Sanitation: Learning from the Millennium Development Goals, 143, *Soc Indic Res*, pp.795–810 (2019)

¹³⁴ Giriya K Bharat, Nathaniel B Dkhar and Mary Abraham, 'Aligning India's Sanitation Policies with the Sustainable Development Goals (SDGs), TERI Discussion Paper, p.6 (2020)

Sustainable Development Goal (SDG) with a broad and ambitious vision for the next 15 years. All 193 Member States of the United Nations General Assembly unanimously agreed to Transform Our World: the 2030 Agenda for Sustainable Development (the 2030 Agenda) in September 2015. The 2030 Agenda is a plan of action for people, the planet, and prosperity. The 2030 Agenda established 17 Sustainable Development Goals (SDGs) and 169 global targets. It further seeks to realize all human rights and achieve gender equality and empowerment of all women and girls. It included a self-standing goal among seventeen goals, i.e., SDG Goal 6 regarding access to water and sanitation. It places water and sanitation at the core of sustainable development. In SDGs, sanitation was articulated as a single target as part of a new goal on water and sanitation:¹³⁵

“By 2030, 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.”

The establishment of SDG 6, ensuring water availability and sustainable management for all, reflects a growing focus on water and sanitation issues in the global political agenda. Achieving universal access to adequate and equitable sanitation and hygiene by 2030 is a major challenge in many parts of the world. Goal 6.2 ensures the elimination of open defecation from countries. And it also provides that everyone has access to a basic toilet and space in the system for the safe management of emissions. As a result, the proportion of the global population using at least a basic sanitation service increased from 59 percent in 2000 to 68 percent between 2000 and 2015. However, 2.3 billion people still lacked basic services, 70 percent were in rural areas, and just 1 in 10 countries below 95 percent coverage is on track to achieve universal coverage by 2030. Furthermore, 4.5 billion people worldwide lacked a safely managed sanitation service in 2015. Of those who still practise open defecation, 90 percent lived in rural areas, and the majority lived in just two regions, with 558 million in Central Asia and Southern Asia and 220 million in sub-Saharan Africa.¹³⁶

¹³⁵ UN Water, Sustainable Development Goal 6: Synthesis Report on Water and Sanitation (2018). Available at: https://sustainabledevelopment.un.org/content/documents/19901SDG6_SR2018_web_3.pdf (visited on: September 13, 2020)

¹³⁶ *ibid*

India, with 17 percent of the world's population, holds the key to global SDG achievement. Today, the country faces many challenges in many areas of development, be it health, nutrition, education, sanitation, and infrastructure. India is fully committed to achieving the Global Goals within the specified timelines. The country is aware of the possibility that if India does not meet the SDGs, the world will be far from receiving them.¹³⁷ In India, the significant improvement in goal 6 is largely driven by the success of the Swachh Bharat Abhiyan in eliminating open defecation. The flagship initiative of the Swachh Bharat Mission, covering all rural and urban areas, has successfully achieved the target of making India open-defecation-free (ODF) by 2nd October 2019. When the mission was launched in 2014, the overall coverage of sanitation was 38.70 percent. Progressing from this, the country achieved 100 percent sanitation coverage in rural India. Till December 2019, around 6 million villages, 633 districts, and 35 states/union territories have been verified to be ODF.¹³⁸

3.6 SANITATION AS A DISTINCT HUMAN RIGHT

When the United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948, the human rights to water and sanitation were not explicitly included in its text. This omission must be understood in the context of a world at the time, where the world's governing structure was very different from today. The International Covenant on Economic, Social, and Cultural Rights was the first internationally binding treaty to consecrate economic, social, and cultural rights. Both the Universal Declaration and the International Covenant on Economic, Social, and Cultural Rights provide everyone's right to an adequate standard of living, which explicitly includes food, clothing, and housing. It was argued that to include food, clothing, and housing, without mentioning water explicitly can only be explained by an assumption that water, like air, was assumed to be available to all. As the water and sanitation crisis with attendant health and economic consequences deepened in the second half of the twentieth century, the human rights community began to value the importance of water and sanitation. Several of the more recent international human

¹³⁷ United Nations, NITI Aayog, "SDG INDIA INDEX 2019-2020" p3 (2 November 2019). Available at: https://niti.gov.in/sites/default/files/SDG-India-Index-2.0_27-Dec.pdf (visited on: September 13, 2020)

¹³⁸ *ibid*

rights treaties make explicit reference to the importance of water and/or sanitation in realising human rights, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC) and Convention on the Rights of Persons with Disabilities (CRPD).¹³⁹

The genesis of the right to water discourse, which in turn gave way to the discussion of a right to sanitation, can be traced back to the 1977 Mar del Plata conference in Argentina.¹⁴⁰ The conference issued an Action Plan on “Community Water Supply” and declared that “All the people have right to have access to drinking water in quantities and of a quality equal to their basic needs.” This principle was later affirmed in Agenda 21 of the 1992 UN Conference on Environment and Development in Rio de Janeiro. The Mar del Plata conference also recognized that water and waste water disposal are essential for life and human development.

In 2002, General Comment 15 of UN Committee for Economic, Social and Cultural Rights (CESCR) found that a right to water was implicitly part of the right to an adequate standard of living and related to the right to the highest attainable standard of health and the rights to adequate housing and adequate food. However, the status of the right to sanitation was not clear from the international point of view as sometimes it was defined as a right derived from the right to water, sometimes as “a co-right with water,” and sometimes as an independent right. For example, legal instruments at the international level referred to water and sanitation as ‘a human right’ and not ‘human rights.’ The attempt to recognize a distinct right to sanitation began with the initiative by the UN Special Rapporteur on the human right to safe drinking water and sanitation. The Special Rapporteur argued that sanitation is a distinct right because of its specific dignity dimensions and, therefore, should be treated as a separate human right. In 2010, the right to water and sanitation was officially recognized by the UN CESCR for the first time. It issued a statement on the right to sanitation, which clarified that it is inter-related with the right to water. Furthermore, in April 2011, the Human Rights Council adopted, through

¹³⁹ Obani, & Gupta, ‘The evolution of the right to water and sanitation: differentiating the implications’, 24(1), *Review of European, Comparative & International Environmental Law*, pp.27-39, (2015)

¹⁴⁰ United Nations Water Conference, Mar del Plata, Mar, *Report of the United Nations Water Conference*, pp14-25, (1977). (U.N. Doc. E/CONF.70/29)

Resolution,¹⁴¹ i.e., access to safe drinking water and sanitation as a human right: a right to life and human dignity.¹⁴²

3.6.1 The Content of the Human Right to Sanitation

The United Nations has defined sanitation as a system for collecting, transporting, treating, disposal, or reusing human excreta and associated hygiene. In 2002, the United Nations Committee on Economic, Social and Cultural Rights adopted its general comment No. 15 on the right to water, defined as the right of everyone “to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.” In 2004, the United Nations Sub-Commission on the Promotion and Protection of Human Rights,¹⁴³ an expert body that will advise the United Nations Human Rights Council, presented an analysis of the legal basis and implications of the right to water and sanitation. Four years later, in 2006, the United Nations Sub-Commission adopted guidelines for realizing the right to drinking water and sanitation.¹⁴⁴ Furthermore, in 2008, the Human Rights Council created the mandate of the “independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation” to help clarify the scope and content of these obligations.¹⁴⁵ Thus, universal access to sanitation is fundamental for human dignity and privacy and is one of the principal mechanisms for protecting the quality of water resources. Although the guidelines of Sub-Commission were consistent with General Comment No. 15 of UNCESCR, it included more precise statements that define sanitation as a right in conjunction with access to water and its components. General Comment No. 15 of UNCESCR and the Sub-Commission Guidelines

¹⁴¹ United Nations General Assembly, The Resolutions and decisions adopted by the Human Rights Council on its sixteenth session (A/HRC/RES/16/2), 2011

¹⁴² Murthy, “The Human Right(s) to Water and Sanitation: History, Meaning and the Controversy Over-Privatization”, vol. 31, Berkeley Journal of International Law, pp 89-149 (2013)

¹⁴³ In Realization of the Right to Drinking Water and Sanitation, Report of the Special Rapporteur, El Hadji Guissé, United Nations Commission on Human Rights, Sub Commission on the Promotion and Protection of Human Rights, Fifty-seventh session, Economic, Social And Cultural Rights, (2005). (UN Doc. E/CN.4/Sub.2/2005/2). Available at: www.ielrc.org/content/e0501.pdf (visited on: October 27, 2019)

¹⁴⁴ Adopted in Resolution 2006/10, Promotion of the Realization of the Right to Drinking Water and Sanitation, Report of the Sub-Commission on the Promotion and Protection of Human Rights, Fifty-eighth session, p. 41 (2006), (UN Doc. A/HRC/Sub.1/58/L.11). Available at: www.ielrc.org/content/e0501.pdf (visited on: October 27, 2019)

¹⁴⁵ United Nations, OHCHR, UN-Habitat, WHO. (The) Right to Water, Fact Sheet No. 35. 2010. Available at: <https://www.ohchr.org/Documents/Publications/FactSheet35en.pdf> (visited on: October 27, 2019)

together explains that the right to water and sanitation includes the following key components:

Availability/Sufficient: About sanitation, availability refers to sufficient quantities and reliability of service. There must be a continuous and sufficient number of water supply and sanitation facilities for each person, i.e., regular and sufficient for personal and domestic uses. This normally includes drinking, personal sanitation, washing clothes, food preparation, and personal and household hygiene. It should be designed at least two basic standards, i.e., collection and treatment services. According to the World Health Organization (WHO), between 50 and 100 litres of water per person per day and an absolute minimum of 20 litres are needed to ensure that most basic needs are met, and few health concerns arise. These standards can help design legally enforceable rights and develop indicators for the right to water and sanitation. For example, in the **Menores Comunidad Paynemil** case from Argentina, a court ordered the State to provide 250 liters of water daily for each inhabitant of an indigenous community whose water source had been polluted by an oil company.¹⁴⁶ In India, under Section 62 of Maharashtra Municipalities Act, 1965, Municipal Councils are expected to provide at least 70 liters of drinking water per head per day.¹⁴⁷

It is the responsibility of public authorities and regulators to establish a framework of enforceable measures that ensure safe sanitation facilities must be available:¹⁴⁸

- In public places in sufficient numbers, addressing the specific needs of men, women and children, the elderly and the disabled,
- To serve those without a permanent dwelling, such as homeless people or nomadic communities,

¹⁴⁶ COHRE, AAAS, SDC and UN-HABITAT, 'Manual on the Right to Water and Sanitation (RTWS) (Chapter 7: Water availability, allocation and sustainability)', 2007. Available at: <http://globalinitiative-eser.org/wp-content/uploads/2013/05/COHRE-Manual-on-Right-to-Water.pdf> (visited on: February 28, 2020)

¹⁴⁷ Maharashtra Municipalities Act, 1965. S.62

¹⁴⁸ Robert Bos, 'Manual on the Human Rights to Safe Drinking Water and Sanitation for Practitioners (2016). Available at: https://www.iwapublishing.com/sites/default/files/ebooks/Bos_0.pdf (visited on: February 28, 2020)

- In institutional facilities (such as schools, hospitals, health and detention centres) in sufficient numbers, addressing the specific needs of men, women, children, the elderly, and the disabled, and detained people (such as prisoners, refugees, and asylum-seekers).

In India, the Supreme Court¹⁴⁹ also held that public authorities have an immediate obligation to ensure the provision of toilet facilities for boys and girls, separately, under the right to education, as guaranteed by the Constitution of India,¹⁵⁰ and the Right of Children to Free and Compulsory Education Act.¹⁵¹

Quality/ Safe: This key component of the right to water and sanitation ensures the quality of drinking water sources and sanitation services. Water and sanitation services should be provided in such a way as to protect the health of users and the public.

According to General Comment No. 15 of CESCR, the sanitation facilities, which are required for personal and domestic uses, must be “safe, i.e., free from microorganisms, chemical and hazardous substances that constitute a threat to a person’s health.”¹⁵² Sanitation services must be adequate to fulfil the requirements for all people's health, dignity, and privacy, including ensuring access to safe water for handwashing and menstrual hygiene, anal and genital cleansing, and mechanisms for the hygienic disposal of menstrual product. Regular cleaning, emptying of pits or other places that collect human excreta, and maintenance are essential for ensuring sanitation facilities’ sustainability and continued access. In India, the Supreme Court¹⁵³ held that the continuation of manual scavenging, which is thrown into a vortex of severe social and economic exploitation, despite being legally banned, violates human rights and thus ordered the state to take appropriate action in response to any violations.¹⁵⁴ Finally, safe sanitation relies on adequate hygiene promotion to

¹⁴⁹ Environment & Consumer Protection Foundation vs. Delhi Administration and Others [2012] SC WP (Civil) no 631.

¹⁵⁰ The Constitution of India. Art. 21A

¹⁵¹ The Right of Children to Free and Compulsory Education Act, 2009. S.31

¹⁵² COHRE, AAAS, SDC and UN-HABITAT, ‘Manual on the Right to Water and Sanitation (Chapter 8: Water quality and hygiene)’, 2007. Available at: <http://globalinitiative-escr.org/wp-content/uploads/2013/05/COHRE-Manual-on-Right-to-Water.pdf> (visited on: February 28, 2020)

¹⁵³ Safai Karamchhari Andolan and Ors. vs. Union of India and Ors. 2014, 2 Writ Petition (C) No. 583 of 2003 (India).

¹⁵⁴ *Ibid*

encourage individuals to ensure their health and to respect the safety and dignity of others by using toilets and latrines hygienically. In its guidelines for drinking-water quality, the World Health Organization (WHO) provides a basis for the development of national standards that, if properly implemented, will ensure the safety of drinking water.¹⁵⁵

Accessibility: Water and sanitation facilities must be within safe physical reach, in or near each house, educational institution, public institutions, and places or workplace. Sanitation facilities should be in a safe location and address the needs of different groups, particularly women, whose physical security needs to be ensured. The absolute minimum quantity of water per person normally requires that the water source is within 1 kilometre or about 30 minutes of collection time.¹⁵⁶ In India, general safeguard has been provided to persons with disabilities under Article 46 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1994. It says that a toilet facility should be accessible for a person with disabilities. Accessibility has four overlapping dimensions:

- i. **Physical Accessibility:** water, and sanitation facilities and services, must be within safe physical reach for all sections of the population. Sufficient, safe, and acceptable water and sanitation must be accessible within or in the immediate vicinity of each household, educational institution, and workplace.
- ii. **Economic Accessibility:** Water, and water facilities and services, must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable and must not compromise or threaten the realization of other Covenant rights.
- iii. **Non-discrimination:** Water and water facilities and services must be accessible to all, including the most vulnerable or marginalized sections of the population, in law and fact, without discrimination on any of the prohibited grounds.

¹⁵⁵ WHO Quality Guidelines. Available at: http://www.who.int/water_sanitation_health (visited on: February 28, 2020)

¹⁵⁶ COHRE, AAAS, SDC and UN-HABITAT, 'Manual on the Right to Water and Sanitation (Chapter 9: Physical accessibility of water and sanitation of the Manual on the Right to Water and Sanitation) 2007. Available at: <http://globalinitiative-escr.org/wp-content/uploads/2013/05/COHRE-Manual-on-Right-to-Water.pdf> (visited on: February 28, 2020)

- iv. **Information Accessibility:** accessibility includes the right to seek, receive and impart information concerning water issues.

Sanitation facilities must also be technically safe to use. It requires the superstructure to be sufficiently stable to support the facility and the floor to be designed to reduce the risk of accidents. Regular cleaning and maintenance are essential to guarantee technical safety. Ensuring accessibility in these contexts shows the importance of going beyond technical measures and tackling gender stereotypes, taboos, and stigma around sanitation.¹⁵⁷

Affordability: Water and sanitation services must be affordable to all. The direct and indirect costs of securing water and sanitation must not reduce a person's capacity to acquire other essential goods, such as food, housing, education, and health care. It means that water and sanitation services need to be subsidized for poor communities. For example, affordability can mean that services must be provided free of charge for people or organizations living in extreme poverty.¹⁵⁸ The affordability of sanitation is a challenge regarding the high cost of connecting to a sewerage system or constructing and maintaining a latrine.¹⁵⁹ Where sanitation is based on water and connected to a centralized sewerage system, the facilities and services (construction, emptying, maintenance, treatment, and disposal of faecal matter) must be affordable and potentially imply the payment for large quantities of water for flushing the toilets. The Plan of Implementation of the 2002 World Summit on Sustainable Development indicates that cost-recovery objectives in the water field should not become a barrier to access by poor people.

Therefore, when people are unable to access sanitation through their means, the state is obliged to find solutions for ensuring their access to sanitation.¹⁶⁰

Non-Discrimination: International human rights law envisages the equal enjoyment of all human rights by all people. The principle of non-discrimination and

¹⁵⁷ COHRE, AAAS, SDC and UN-HABITAT, 'Manual on the Right to Water and Sanitation (Chapter 9: Physical accessibility of water and sanitation of the Manual on the Right to Water and Sanitation) 2007. Available at: <http://globalinitiative-escr.org/wp-content/uploads/2013/05/COHRE-Manual-on-Right-to-Water.pdf> (visited on: February 28, 2020)

¹⁵⁸ *ibid.* Chapter 10

¹⁵⁹ *id*

¹⁶⁰ Catarina de Albuquerque, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Human Right Council (2009), (UN Doc. A/HRC/12/24)

equality is a cornerstone of all human rights practices. Under international human rights law, discrimination is defined as ‘any distinction, exclusion, or restriction which has the purpose of nullifying the recognition, enjoyment or exercise human rights, and fundamental freedoms in the political, economic, social, cultural, civil or any other field.’¹⁶¹ **Article 1 of the Universal Declaration of Human Rights (UDHR)** also states that ‘All human beings are born free and equal in dignity and rights.’¹⁶² Article 2 of UDHR prohibits discrimination on certain grounds such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth, or status.¹⁶³

Non-discrimination is a crucial component of the right to water and sanitation also. It states that everybody must ensure access to water and sanitation, including the most vulnerable or marginalized groups, without discrimination. The human right to sanitation entitles everyone without discrimination to physical and affordable access to sanitation in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, providing privacy and ensuring dignity.¹⁶⁴ The principle of non-discrimination is itself a fundamental human right. It includes, in all international human rights conventions, prohibition, distinction, exclusion, restriction, or preference, based on any ground (e.g., race, colour, sex, language, health status, sexual orientation, religion, political or another opinion, national or social origin, property, birth or another status) without a legitimate reason.

Therefore, the states must allocate resources available for water and sanitation to services that benefit a wide section of the population, rather than through expensive facilities that benefit only a privileged area. Also, the States must provide special attention to groups previously marginalized or who have special needs relating to water, such as indigenous peoples and women.¹⁶⁵

¹⁶¹ The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Article 1 (1), and the Convention on the Rights of Persons with Disabilities (CRPD). Article 2.

¹⁶² The Universal Declaration of Human Rights (UDHR), 1948. Art. 1

¹⁶³ The Universal Declaration of Human Rights (UDHR), 1948. Art. 2

¹⁶⁴ UN-Water, ‘Eliminating discrimination and inequalities in access to water and sanitation’, (2015). Available at: <http://www.unwater.org/app/uploads/2015/05/Discrimination-policy.pdf> (visited on: April 21, 2020)

¹⁶⁵ General Comment No. 15, paras. 13 and 16, provides a comprehensive list of relevant groups and their particular needs. (UN Doc. E/C.12/2002/11)

Participation and Access to Information: The right to participate in decision-making gives all persons a genuine opportunity to influence and enhance policy formulation and improvements in the development process, including the water and sanitation sector.¹⁶⁶ In the water and sanitation and other development sectors, participation of project beneficiaries must be adequate so that the implementation of projects may fulfill people's needs. To establish effective strategies and policies, a thorough understanding of the actual condition of water and sanitation is a prerequisite. An accurate assessment of the current situation requires communities' involvement. The participation of local communities is crucial for identifying the most appropriate investments and solutions on the ground level. Therefore, it is the duty of government in a State, including the national government, regional governments, and the local authorities, to ensure equitable representation in the decision-making of vulnerable groups and sections of the population that have traditionally been marginalized, particularly women. Thus, it provides that all persons must be given a genuine opportunity to access information and influence and enhance policy formulation and implementation in the water and sanitation sectors.¹⁶⁷

Accountability: Accountability implies that States should ensure that policies and laws consistent with the international human right to safe drinking water and sanitation are created, implemented, and effectively enforced. The States needs to ensure that it is bound to those laws and policies protecting the right to safe drinking water and sanitation by ensuring appropriate consequences when those laws and policies are neglected.¹⁶⁸

Therefore, all States have to ensure that water and sanitation providers, whether public or private, comply with service delivery standards consistent with the human right to safe drinking water and sanitation.

¹⁶⁶ COHRE, AAAS, SDC and UN-HABITAT, Manual on the RTWS (2007), Chapter 6: Participation and access to information. Available at: <http://globalinitiative-escr.org/wp-content/uploads/2013/05/COHRE-Manual-on-Right-to-Water.pdf> (visited on: February 28, 2020)

¹⁶⁷ *ibid*

¹⁶⁸ Virginia Roaf, 'on the right track: Good practices in realizing the rights to water and sanitation', (Catarina de Albuquerque United Nations Special Rapporteur on the human right to safe drinking water and sanitation), Lisbon (2012). Available at: https://www.ohchr.org/Documents/Issues/Water/BookonGoodPractices_en.pdf (visited on: June 02, 2020)

3.7 ROLE OF INDIA IN THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK RELATED TO SANITATION

India is one of the developing countries struggling to meet the basic requirement of sanitation. Since independence in 1947, India is committed to providing water and sanitation to its people. The framework of international law on sanitation has little impact on the development of the right to sanitation in India as India has, on many occasions, recognized the right to clean drinking water and sanitation through policies. Despite various international commitments, improving sanitation in India is still a distant goal.¹⁶⁹ India is a state party to the ICESCR. The Government of India has signed the ICESCR and other conventions that explicitly included the right to sanitation, i.e., the Convention on the Elimination of All Forms of Discrimination Against Woman, the Convention on Right to Child, the Convention on the Rights of Persons with Disabilities. It means that the provisions under these conventions are legally binding on India.¹⁷⁰

India voted in favour of the United Nations General Assembly resolution on the right to water and sanitation, 2010, which recognizes the right to safe and clean drinking water and sanitation as a human right essential for the full enjoyment of life and all human rights.¹⁷¹ India also voted the resolution adopted by the Human Rights Council on the human right to safe drinking water and sanitation in 2011.¹⁷² The resolution invited States to continue promoting the human rights to safe drinking water and sanitation at all levels, including at the national, regional and international levels. Moreover, the resolution also invited states to promote for the full realization of the human right to water and sanitation in forth coming initiative at the Global

¹⁶⁹ Rebecca M. Coleman, *The Human Right of Sanitation for All: A Study of India*, 24, *Pac. McGeorge Global Bus. & Dev. L.J.* p267 (2011)

¹⁷⁰ India ratified International Covenant on Economic, Social and Cultural Rights In 1979, the Convention on Right to Child, in 1992, the Convention on the Elimination of All Forms of Discrimination Against Woman, ratified in 1993, Convention on the Rights of Persons with Disabilities, ratified in 2007. (See: Mr. Léo Heller on End of Mission Statement by the Special Rapporteur on the human rights to safe drinking water and sanitation, New Delhi, 10 November 2017. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22375>) (visited on: March 18, 2019)

¹⁷¹ United Nations General Assembly resolution, 64/292 (July, 2010) (UN Doc. A/RES/64/292)

¹⁷² Human Rights Council Resolution, 18/1 (12 October, 2011) (UN Doc. A/HRC/RES/18/1)

Forum on Sanitation and Hygiene of the Water Supply and Sanitation Collaborative Council¹⁷³ (WSSCC) in October 2011 at Mumbai (India).¹⁷⁴

The WSSCC is a multi-stake holder partnership organization that work with national and local governments, civil society networks, communities, schools and local entrepreneurs to makes a positive difference in the lives of millions of vulnerable and marginalized people through improvements in their access to and use of sanitation and hygiene facilities and services. The WSSCC is also a key partner with the Government of India in building capacity in selected states and districts. Between 2017 and 2018, US\$ 0.8 million was leveraged from the Government of India to support capacity building in collective behaviour change for the right to sanitation.¹⁷⁵

India's population is equivalent to 17.7% of the total world population. 68% of the people in India live in rural areas. The sanitation coverage situation in rural areas was very poor. In 2000, sanitation coverage stood at around 15% of the rural population. Progress on sanitation, hygiene behaviour, gender perspective were so under-emphasized that it was very uncertain that India would reach the MDG target in 2015. For India, 21.9 million people, between 2000-15, were needed to gain access to a toilet per year, to meet the MDG target. An additional 53% was needed to be covered by 2015 to meet the MDG target.¹⁷⁶ India is playing a major role in the formulation of the United Nations Sustainable Development Agenda 2030. NITI Aayog has taken the lead by bringing out the SDG 'Baseline Report 2018' which shows how the SDGs will be measured in India. To measure India's performance towards the goal of clean water and sanitation, eight national-level indicators have been identified that achieve five of the eight SDG targets for 2030 outlined under this goal. These indicators have been selected based on the availability of data at the sub-

¹⁷³ The Water Supply and Sanitation Collaborative Council (WSSCC) was a United Nations-hosted organization contributing to Sustainable Development Goal 6, Target 6.2 on sanitation and hygiene. It was established in 1990 and closed at the end of 2020. WSSCC advocated for improved sanitation and hygiene, with a focus on the needs of women, girls and people in vulnerable situations. WSSCC's main areas of focus were large-scale sanitation and hygiene behaviour change programmes through the Global Sanitation Fund.

¹⁷⁴ Human Rights Council Resolution, 18/1 (12 October, 2011) (UN Doc. A/HRC/RES/18/1)

¹⁷⁵ Available at: https://cdn.who.int/media/docs/default-source/wash-documents/glaas/glaas-2018-19/2019-external-support-agency-highlights/wsscc-glaas2019-esa-highlights-191113.pdf?sfvrsn=6c58db6b_6 (visited on: May 13, 2019).

¹⁷⁶ WaterAid India, *Drinking water and Sanitation Coverage in India, Coverage, Financing and Emerging Concerns* (2005). Available at: washmatters.wateraid.org (visited on: July 03, 2020)

national level and to ensure comparability across states and union territories.¹⁷⁷ According to WHO/UNICEF SDG indicator 6.2.1a of 2020, 46% of the population in India uses a safety managed sanitation service.¹⁷⁸

The UN Sub Commission Guidelines noted that States should formally recognize water and sanitation right in relevant laws and regulations.¹⁷⁹ India thereby recognized all the content categories of the right as developed by the Committee on Economic, Social, and Cultural Rights and the Special Rapporteur on the human right to safe drinking water and sanitation.

Another commitment of India at the International level towards WASH implementation was India's ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2007. As a positive development, the Rights of Persons with Disabilities Act (RPWD), 2016, and the Mental Health Care Act, 2017 have been enacted to promote and protect the various rights of people with disabilities in line with the CRPD. The Government of India submitted the First Country Report in June 2015. The report mainly lists the policies and schemes of the government, and does not provide data/information on access, multiple beneficiaries, allocated budget /expenses, etc.¹⁸⁰

Almost 60 percent of the total population, who practice open defecation, resides in India. With less than 40% sanitation coverage, South Asia was among the regions with the lowest figures, particularly in rural areas. Sanitation coverage in South Asia was lagging behind. India was the only country in South Asia where sanitation coverage was further declining.¹⁸¹ For this purpose, the government of India admitted the need for a national sanitation policy. In 2003, SAARC, the South

¹⁷⁷ Available at: <https://www.niti.gov.in/sdg-india-index> (visited on: May 13, 2019)

¹⁷⁸ Available at: https://www.sdg6data.org/country-or-area/India#anchor_6.2.1a (visited on: May 14, 2021)

¹⁷⁹ UN Sub-Commission on the Promotion and Protection of Human Rights, Economic, Social And Cultural Rights: Realization of the right to drinking water and sanitation Report of the Special Rapporteur, El Hadji Guissé, 11 July 2005, UN Doc. E/CN.4/Sub.2/2005/25. Available at: <https://www.refworld.org/docid/43f30aecc.html> (visited on: September 19, 2019)

¹⁸⁰ Parallel Report of India on the Convention on the Rights of Persons with Disabilities (CRPD) (2019). Available at: [https://www.ncpedp.org/sites/all/themes/marinelli/documents/DRAFT%20CRPD%20India%20Parallel%20Report%20\(31st%20March%202017\).pdf](https://www.ncpedp.org/sites/all/themes/marinelli/documents/DRAFT%20CRPD%20India%20Parallel%20Report%20(31st%20March%202017).pdf) (visited on: September 12, 2020)

¹⁸¹ Anju Vaidya, 'Recognition of sanitation as human right: Analysis of UN Reports submitted by Nepal, Bangladesh, and India (2016). Available at: <https://oda-hioa.archive.knowledgearc.net/bitstream/handle/10642/4798/Vaidya.pdf?sequence=2&isAllowed=y> (visited on: September 12, 2020)

Asian Association for Regional Cooperation, launched the Ministerial South Asia Conference on Sanitation (SACOSAN) to accelerate the pace of sanitation and hygiene cover in the region and to achieve the Millennium Development Goals.¹⁸² The first South Asian Conference on Sanitation (SACOSAN) was held in Dhaka, Bangladesh, in 2003 with the participation of nine countries including India. The conference said that the need for sanitation is becoming increasingly clear, and India will take necessary steps towards formulating a new national sanitation policy.¹⁸³ The Government of India also acknowledged that a national policy could encourage access to sanitation services. At that time, a Revised Total Sanitation Campaign (TSC) was the main vehicle to accelerate sanitation coverage in the country. Sanitation coverage has increased significantly since the **Dhaka SACOSAN**, after which, more than 15 million rural households have adopted sanitation facilities.¹⁸⁴ Yet, nearly nine years after Dhaka SACOSAN, India did not develop an adequate national sanitation policy but continued to rely on the Total Sanitation Campaign, 1999, which was not a national policy, but merely a collection of guidelines for states.

The Second SACOSAN was hosted by Pakistan in Islamabad in 2006. The **Islamabad Declaration** called on participating countries to recognize sanitation as a basic human need and essential to improving the environment, health and quality of life.¹⁸⁵ The Third South Asian Conference on Sanitation (SACOSAN III)¹⁸⁶ was held in 2008 in New Delhi, India. The conference was inaugurated by the then Prime Minister of India, Dr Manmohan Singh, where he said that “Safe sanitation is the birthright of every citizen of South Asia.” The theme of the SACOSAN III was “Sanitation for Dignity and Health.” Along with seven other South Asian countries, India unanimously adopted the ‘**Delhi Declaration,**’ which recognized that:

¹⁸² South Asian Conference on Sanitation (SACOSAN), a government led biennial convention held on a rotational basis in each SAARC country (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka), provides a platform for interaction on sanitation.

¹⁸³ Government of India, *Towards Total Sanitation and Hygiene: A Challenge For India*, 11 (2003). Available at: http://ddws.gov.in/popups/Country_Paper_on_SanitationOct_2003.pdf. (visited on: June 29, 2018)

¹⁸⁴ Government of India, *A Movement Towards Total Sanitation in India (South Asian Conference on Sanitation (SACOSAN) Islamabad, Pakistan 20th to 21st September, 2006)*

¹⁸⁵ Available at: https://www.indiawaterportal.org/sites/default/files/iwp2/WaterDrops_11_WaterAid_newsletter_Oct_Dec_2008.pdf (visited on: June 29, 2018)

¹⁸⁶ 3rd South Asian Conference on Sanitation (SACOSAN-III) - The Delhi Declaration, New Delhi (2008). Available at: https://www.wsp.org/sites/wsp.org/files/Day1_overview.pdf (visited on: September 12, 2020)

- ‘access to sanitation and safe drinking water is a basic right, and national priority towards sanitation is imperative’.
- ‘half of the population in participating countries have no access to proper sanitation and about one million men, women and children reportedly die annually due to water and sanitation related diseases.
- ‘in this International Year of Sanitation 2008, commitment to achieve the National Goals on Sanitation and the Millennium Development Goals in a time-bound manner’.

Before this, on the first Asia-Pacific ‘Water Summit’, which took place in Beppu, Japan, on 3-4 December 2007, ten representatives of State and Government, 37 States from the Asia-Pacific, amicably adopted the ‘Message from Beppu.’ It was focused on “the people’s right to safe drinking water and basic sanitation as a basic human right.” The ‘**Colombo Declaration,**’ adopted by eight South Asian countries at the 4th South Asian Conference on Sanitation (SACOSAN IV)¹⁸⁷, was held on 4-16 April 2011. The overall goal of the SACOSAN IV was to accelerate the progress of sanitation and hygiene work in South Asia to enhance its people’s quality of life in fulfilment of the Millennium Development Goals and the commitments made in the World Summit on Sustainable Development. Progress in sanitation remained slow and uneven even after SACOSAN III recognized safe drinking water and sanitation as a human right. India managed only 68 percent sanitation coverage for its people.¹⁸⁸

The Kathmandu Declaration, adopted at the 5th South Asian Conference on Sanitation (SACOSAN V),¹⁸⁹ was held 22-24 October 2013. In this convention, all the signatories declared to renew their joint commitment towards the Human Right to Sanitation adopted by the United Nations. Also, endorsed by SAARC nations to work progressively to achieve an open defecation-free and hygienic South Asia through accessible, affordable, appropriate, acceptable, and environmentally safe sanitation and hygiene services that all people can use and maintain with dignity, safety, and

¹⁸⁷ 4th South Asian Conference on Sanitation (SACOSAN IV) - The Colombo Declaration, Sri Lanka (2011). Available at: <https://sanitation.indiawaterportal.org/english/node/2150> (visited on: September 12, 2020)

¹⁸⁸ Available at: <https://www.ircwash.org/news/sacosan-iv-focuses-scourge-open-defecation> (visited on: September 15, 2020)

¹⁸⁹ 5th South Asian Conference on Sanitation (SACOSAN V) - The Kathmandu Declaration (2013). Available at: <https://jalshakti-ddws.gov.in/sites/default/files/kathmandu%20declaration.pdf> (visited on: September 12, 2020)

comfort. SACOSAN-V unanimously agreed and committed to an open defecation-free South Asia by 2023. Ministry of Drinking Water and Sanitation, Government of India, participated in SACOSAN-V to move towards universal sanitation coverage, with motto of “ Sanitation for All: All for Sanitation.”¹⁹⁰ The Kathmandu Declaration broadly called for policy strengthening, emphasis on inclusion and diversity, access to public buildings, raising awareness and demands, involving the health sector, and significant direct participation in SACOSAN. To implement this further, the Government of India under the Swachh Bharat Mission emphasised collective behaviour change and achievement of ODF.¹⁹¹

SACOSAN VI, the **Dhaka Declaration**, held on 11th - 13th January 2016, Dhaka, Bangladesh, unanimously agreed to 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 through SDG target 6.2 by 2030.¹⁹² The Seventh South Asian Conference on Sanitation, SACOSAN-VII, was held 9-12 April 2018 in Islamabad, Pakistan. The conference showed that India ensured universal access to sanitation, with coverage only at 46% in 2015 under Swachh Bharat Mission, launched in 2014. 933 million people lacked access to basic sanitation, of whom 558 million practiced open defecation.¹⁹³ Thus, the Government of India has consistently expressed its commitment towards a right to sanitation in SACOSAN conferences.

3.8 CONCLUSION

UN General Assembly recognized the right to sanitation as a distinct human right. At the same time, it has also been clarified that the right to sanitation is related to the right to water, the right to an adequate standard of living and other human rights, but the characteristics of all these are different from each other. The move to

¹⁹⁰Government of India, Fifth South Asian Conference on Sanitation (SACOSAN V)- The Dhaka Declaration, Kathmandu (Ministry of Drinking Water and Sanitation, November 16, 2013)

¹⁹¹Government of India, SACOSAN VI, Dhaka, 11-13 January 2016 (Ministry of Drinking Water and Sanitation, 2016)

¹⁹² 6th South Asian Conference on Sanitation (SACOSAN VI) - The Dhaka Declaration (2016). Available at: <http://www.sacosanvi.gov.bd/> (visited on: September 12, 2020)

¹⁹³ Government of India, National Annual Rural Sanitation Survey (NARSS) 2017- 18, conducted by an Independent Verification Agency under the World Bank support project to the Swachh Bharat Mission Rural. Available at: <http://admin.indiaenvironmentportal.org.in/files/file/NARSS-2017- 18-Provisional-Summary-Results-Report.pdf> (visited on: September 12, 2020)

making sanitation a human right means that we can directly address the particular human rights challenges associated with sanitation. Léo Heller, UN Special Rapporteur on the human rights of safe drinking water and sanitation, said that ‘having sanitation as its own right means that there can be a change in approach and understanding, demonstrating that sanitation is not solely tied to water. Furthermore, it gives people a clearer perception of the right, strengthening their capacity to claim this right when the State fails to provide the services or when they are unsafe, unaffordable, inaccessible, or with inadequate privacy.’¹⁹⁴

The emergence of the right to sanitation as a distinct right can be justified on various grounds. First, Explicit legal recognition of the right to sanitation will make it a legal entitlement, rather than a charity or only a moral priority. Second, a legal entitlement provides opportunities for the right holders to make duty bearers accountable. Third, vulnerable and marginalized groups will get priority attention.¹⁹⁵ According to COHRE, ‘without recognizing the right of all people to gain access to safe, sustainable and sufficient, affordable water and sanitation services, it will be almost impossible to deliver on the right to water and sanitation.’¹⁹⁶

The ICESCR, 1966, is perhaps the most important legal instrument in the context of the right to sanitation. Still, it is silent on the right to sanitation. In this context, the UN Committee on Economic Social and Cultural Rights adopted the Statement on the Right to Sanitation in 2010, which was probably the first step towards an explicit recognition of a distinct right to sanitation at the international level. In 2015, the UN General Assembly adopted another resolution that specifically recognizes the human rights to drinking water and sanitation. This resolution is significantly different from the previous resolutions because it acknowledges the right to water and the right to sanitation as individual rights instead of recognizing the right to water and the right to sanitation together as a single integrated right. The Government of India has not only signed ICESCR, but also, in 2010, confirmed its

¹⁹⁴ Léo Heller, UN Special Rapporteur on the human rights of safe drinking water and sanitation, 30 December, 2015. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22375> (visited on: March 18, 2019)

¹⁹⁵ Sujith Koonan, ‘Right to Sanitation in India: Nature and Scope’, International Environmental Law Research Centre (IELRC), p 1-14 (2016). Available at: <http://www.ielrc.org/content/a1608.pdf> (visited on: September 08, 2018)

¹⁹⁶ COHRE, UN-HABITAT, WATERAID, SDC, Sanitation: A Human Rights Imperative (2008). Available at: www.ohchr.org (visited on: September 06, 2020)

commitment by voting in favour of a specific UN resolution that recognized the right to sanitation explicitly. Not only at the international level, but India has also been a supporter of the articulation of the right to sanitation at the regional level (for example, SACOSAN).

The right to water and sanitation can help empower and enable communities to organize themselves, seek and obtain information, and legitimately participate in relevant decision-making processes. In short, recognizing the right to sanitation can serve as a legal and political tool to significantly improve access. The state must take steps to ensure the ‘progressive realization’ of the right to sanitation. However, states cannot meaningfully pursue the right to sanitation without understanding the interdependence of access to sanitation with other human rights. Poor sanitation or no access to sanitation often occurs in the context of other human rights violations and reduces their effects.

The year 2020 marks the tenth anniversary of the landmark resolution adopted by the General Assembly in July 2010, which “recognized the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.” Over the last ten years, millions have gained access to clean water and decent toilets. Nearly half of the world’s developing countries have amended their constitutions to include water and sanitation as human rights. But there is still a long way to go as millions of people are still being forced to live without access to these basic services due to a lack of resources and technologies and the inequitable power relations in our world.¹⁹⁷

Thus, we can say that Human Right to Sanitation is not a “magic wand” that can immediately transform the world. However, the initiatives of proper social movements, changes into States’ legal frameworks, the binding obligations of international law, judicial stances concerning new legal regulations, and the new stances of service providers may create a favourable environment towards sanitation in a changing society.

¹⁹⁷ Léo Heller, UN Special Rapporteur on the human rights of safe drinking water and sanitation, 30 December, 2015. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22375>(visited on: March 18, 2019)

**LAWS AND POLICIES RELATED TO SANITATION
AND ROLE OF INDIAN JUDICIARY**

Access to sanitation is now a human right. It has gained widespread international recognition through a United Nations Human Rights Council resolution passed in 2010,¹ a United Nations General Assembly resolution in the same year, and other means. This clear recognition of sanitation as a human right has inspired a great interest as well as a positive attitude towards sanitation. Before this, it was an explicit right under the right to an adequate standard of living within international and national laws.² For example, the Universal Declaration of Human Rights 1948 (**Article 25**),³ International Covenant on Economic, Social and Cultural Rights 1966 (**Article 11**),⁴ the Convention on the Rights of the Child 1989 (**Article 24**),⁵ the Convention on the Rights of Persons with Disabilities (CRPD) (**Article 28**), etc.⁶

¹ Human Rights Council Resolution, (UN Doc A/HRC/RES/64/292)

² M. P. Jain, '*Indian Constitutional Law*, '(Lexis Nexis Butterworths Wadhwa, 6th edn., 2012)

³ **Article 25 of UDHR** provides:

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

⁴**Article 11 of ICESCR** provides "1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

⁵ **Article 24 of CRC** provides:2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

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

⁶ The Convention on the Rights of Persons with Disabilities (CRPD). **Article 28** (Adequate standard of living and social protection)

Every human has the right to seek an adequate standard of living for the well-being of himself and his family.⁷ The primary determinants of an adequate standard of living are the right to food, pure drinking water, shelter, etc. Also, it is inextricably related to the right to the highest attainable standard of physical and mental health and the right to life and human dignity.⁸

The Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, Catarina de Albuquerque, argued that water and sanitation should be treated as two separate human rights with equal status, which are included in the human right to an adequate standard of living. The practical reason behind this approach was that, often, when water and sanitation are mentioned together, the importance of sanitation is underestimated because of the political and cultural preference given to the right to water.⁹ The explicit recognition of the human right to water and sanitation has inspired immense interest along with a positive attitude towards human rights to water and sanitation. Establishing the human rights to water and sanitation as separate and distinct rights made it easier for governments to set standards for the human right to sanitation and its attainment. Furthermore, distinguishing between these two rights also made it easier for states, civil society and other stakeholders to understand the specific responsibilities, obligations and roles inherent in the realization of each of them.¹⁰

After giving sanitation a separate human rights status, the real challenge now is to convert obligations related to this human right into meaningful action at the grassroots level. It is possible only when the human rights to sanitation are firmly placed at the centre of state laws, policies, and regulations. It is an obligation on the states to realize the human right to sanitation for which they can be held accountable. The obligation to respect the human rights to sanitation means that the state cannot

⁷ United Nations, Universal Declaration of human Rights. Available at: https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf (visited on: March 11, 2017)

⁸M.C. Craven, *The International Covenant an Economic, Social and Cultural Rights: A perspective on its Development*, 288 (Oxford University Press, Oxford,1995)

⁹Catarina de Albuquerque, *Realising the human rights to water and sanitation: A Handbook by the UN Special Rapporteur on the human right to safe drinking water and sanitation*, (Precision Fototype, Bangalore, 2014)

¹⁰*ibid*

prevent people from enjoying the human rights to sanitation.¹¹ However, states are free to choose how they realize human rights.¹²

International human rights law does not oblige states to include guarantees of the human rights to sanitation in their constitutions, nor does it stipulate that such guarantees should be explicit or implied. However, constitutional guarantees of the human right to sanitation are highly desirable in a country as international human rights law demands that states work towards achieving universal access to sanitation guided by human rights principles and standards for sanitation.¹³

India is a signatory to several international conventions that consider water and sanitation as a human right, yet, international law has little effect on developing the right to sanitation in India. The concept of the right to sanitation at the international level is comparatively narrow, and India has a long history of recognition of the right to sanitation. India has also, on many occasions, recognized the right to sanitation as a human right.¹⁴

In India, the law and policy framework governing sanitation interventions consists of constitutional provisions, statutes and schemes, programs, administrative direction, etc. Primarily, the legal basis for the right to sanitation can be mainly found in the Constitution of India. Although, it does not explicitly recognize the right to sanitation but indirectly recognizes it in various forms. Under the Constitution of India sanitation falls under the State List, so the power to legislate on it rests with the respective state governments. Moreover, the fundamental right “Right to life”,¹⁵ encompasses right to sanitation within it under the right to live with human dignity. Originally the Right to Sanitation was not a part of Article 21, later it was made a part of it through the interpretation of the Fundamental Right to Life by the Higher

¹¹ Catarina de Albuquerque, ‘*Realising the human rights to water and sanitation: A Handbook by the UN Special Rapporteur on the human right to safe drinking water and sanitation,*’ (Precision Fototype, Bangalore, 2014)

¹² The International Covenant on Economic, Social and Cultural Rights. art.2(1)

¹³ Catarina de Albuquerque, *Realising the human rights to water and sanitation: Legislative, regulatory and policy frameworks* (Precision Fototype, Bangalore, 2014).

¹⁴ Robert Bos, ‘*Manual of the Human Rights to Safe Drinking Water and Sanitation for Practitioners*’ (IWA Publishing, 2016). Available at: https://www.iwapublishing.com/sites/default/files/ebooks/Bos_0.pdf (visited on: May 02, 2019)

¹⁵ Article 21 The Constitution of India:

“No person shall be deprived of his life or personal liberty except according to procedure established by law.”

Judiciary of India (Supreme Court and High Court) which is now a justiciable right.¹⁶ Sanitation is also a part of the ‘Directive Principles of State Policy’ DPSP of the Constitution of India.¹⁷

Several laws have been adopted over time to realize the aspects of sanitation, but comprehensive legislation that addresses the right to sanitation as a whole is absent in India.¹⁸ Simultaneously, different statutes address different aspects of sanitation in rural and urban areas. For example, laws prohibiting manual scavenging are relevant in the context of rural sanitation, as dry latrines and their manual cleaning remain a significant challenge to the realization of the right to sanitation in rural areas.¹⁹ Similarly, environmental laws are relevant insofar as an environmental dimension (for example, wastewater disposal and water pollution due to toilets) of the right to sanitation are concerned.²⁰ Further, many other statutes are governing different aspects of sanitation-related problems, for example, the law related to the right to education, labour legislation, and legislation to the rights of differently-abled people. While these are central laws, some states have also adopted laws to set up a centralized institutional mechanism to address a certain aspect of both rural and urban sanitation. These laws generally mandate the agency, established under the Act, to control and manage sanitation services.

The right to sanitation has been recognized at various levels in India. The most important of which is the interpretation of the fundamental right to life by the Supreme Court and various High Courts to include the right to sanitation under the Fundamental Rights. However, the content, duties and mechanisms are yet to be elaborated through a statute to ensure sanitation-related treatment and accountability. The absence of any comprehensive legislation relating to the right to sanitation has prompted the states to formulate various regulations and governance for the sanitation

¹⁶ Virender Gaur vs. State of Haryana, Supreme Court of India (1995) 2 SCC 577, LK Koolwal vs. State of Haryana, High Court of Rajasthan, AIR 1988 Raj. 2

¹⁷ Article 47 of The Constitution of India:

“Provides that it is a duty of the government to raise the standard of living. Sanitation is also a part of Article 48A that makes it a duty of the state to ‘protect and improve the environment.’”

¹⁸ P. Cullet, S. Koonan, *et al.*, *The Right to Sanitation in India: Critical perspective*, (Oxford university Press, 2019)

¹⁹ See the Legislations for The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013

²⁰ The Water (Prevention and Control of Pollution) Act, 1974, and The Environment (Protection) Act, 1986

sector through policies, programs, and schemes. But, these policies, programs, and schemes do not constitute any sanitational right, also an accountability mechanism to implement them properly is absent.²¹

This chapter highlights and examine the constitutional provisions, relevant national laws, judicial decisions as well as policies and schemes introduced by the central government to addresses sanitation issues.

4.1 THE CONSTITUTION OF INDIA

The status of the right to sanitation in India is complicated because it is not explicitly recognized as a right under the Constitution of India. But in various case laws, the right to sanitation has been recognized by the judiciary through its interpretation of existing fundamental rights. The right to sanitation is included in the Constitution of India in two different ways. Firstly, the higher judiciary recognized the existence of the right to sanitation as a fundamental right derived from the right to life, thus, sanitation became firmly established as a right in India.²² Second, since the adoption of the Constitution of India, Article 17 (abolition of untouchability) has been included as a fundamental right, which also deals with the practice of manual scavenging. Although the word sanitation is not mentioned in it, it is an integral part of it.²³

The inclusion of sanitation as a fundamental right in the Constitution serves as an essential legal basis. There are three reasons for this. First, a constitutional provision is crucial for the development of legislation at the national as well as local government level. Legislation can further specify the entitlements of individuals and outline the legal duties of the local authorities. Second, a constitutional provision provides the necessary framework for judicial enforcement. Lastly, and most importantly, a constitutional recognition reflects the country's commitment to sanitation as a legal right that all are entitled to.²⁴

²¹ Sujith Koonan, 'Right to Sanitation in India: Nature, Scope and Voices from the Margins,' *International Environmental Law Research Centre*, p. 1-14 (2016)

²² *Municipal Council, Ratlam vs. Vardhichand and Others*, AIR 1980 SC 1622

²³ P. Cullet and L. Bhullar (eds.), *'Sanitation Law and Policy in India: An Introduction to Basic Instruments'*, (Oxford University Press, New Delhi, 2015)

²⁴ Rebecca M. Coleman, 'The Human Right of Sanitation for All: A Study of India,' vol. 24, *Global Business & Development Law Journal*, p.280, (2011).

As per the Constitution of India, the rules and governance of sanitation in India are under the jurisdiction of the state governments and local governments. The legislative power rests with the state government, while the constitution vests local governments (Panchayats, Municipalities and Corporations) with the power to enforce rules and regulations related to sanitation, along with other major sanitation-related responsibilities.

4.1.1 Right to Sanitation and Fundamental Rights

Article 21 of the Constitution of India guarantees a fundamental right to life and personal liberty. The expression 'life' includes a life with human dignity and not mere survival or animal existence.²⁵ Enjoyment of life and its attainment, including their right to life with human dignity, encompasses within its ambit the protection and preservation of the environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution. Environmental, ecological, air, water, pollution, etc., should be regarded as amounting to a violation of Article 21. Therefore, a hygienic environment is an integral facet of the right to a healthy life, and it would be impossible to live with human dignity without a humane and healthy environment.

The scope of Article 21 the right to life, but its scope has been widened through various judgments. The courts have often quoted the observation of **Field, J.**, in an American case²⁶ that, 'by the term life,' as used under Article 21, something more is meant than mere animal existence.²⁷ Bhagwati, J., has observed, in **Francis Coralie vs. Delhi**,²⁸ that 'the right to life includes the right to live with human dignity, and all, that goes along with it.' Therefore, the court gave an expanded interpretation to Article 21 that to live with human dignity includes the protection of health and strength of workers, men and women, and children against abuse, opportunities, and facilities.²⁹ The court further said that the need for a decent and civilized life includes the right to food, water, and a decent environment.³⁰ In another case, **Subhash**

²⁵ Maneka Gandhi vs. Union of India 1978 AIR 597, 1978 SCR (2) 621.

²⁶ Munn vs. Illinois 94 U.S. 113 (1877)

²⁷ M. P. Jain, '*Indian Constitutional Law*,' p1189, (Lexis Nexis Butterworths Wadhwa, 6th edn., 2012)

²⁸ AIR 1981 SC 746.

²⁹ Bandhua Mukti Morcha vs. Union of India 1984 AIR 802, 1984 SCR (2) 67.

³⁰ Chameli Singh vs. State of Uttar Pradesh AIR 1996 SC 1051

Kumar vs. the State of Bihar,³¹ the Supreme Court declared that “the right to life in Article 21 includes the right of enjoyment of pollution-free water and air for full enjoyment of life.”

Like various other rights, the right to sanitation is a derivative of the right to life enshrined under Article 21. Although it is not specifically and expressly included under Article 21, it came into being by judicial interpretation. The Supreme Court and High Courts have consistently held that the right to sanitation is part and parcel right to life under Article 21, which can never be achieved in its true meaning and spirit without sanitation and hygiene. There are many other fundamental rights within the purview of the right to life directly related to sanitation and can be violated due to poor sanitation. These rights are as follows:

- **Right to Water:**

The concept of right to sanitation includes clean water. Water and sanitation are often mentioned together because the concept of sanitation without water is meaningless. However, the importance of sanitation continued to be downplayed due to the political and cultural preference given to the right to water. The right to life under Article 21 means rights to water and sanitation as well. Although the right to water is not a fundamental right, the Supreme Court has, over the years, creatively interpreted the right to water through the right to life. The courts not only termed the right to water as a fundamental right but also defined water as a ‘social asset.’³² In 2000, the Supreme Court of India interpreted the right to life in the case of **Narmada Bachao Andolan vs. Union of India**³³ and held that ‘water is the basic need for the survival of human beings and is part of the right to life and human rights as enshrined in Article 21 of the Constitution of India and can be served only by providing a source of water where there is none.’ Apart from expanding the content of the right to life as including the right to water, the courts have, in the context of water pollution, mandated the cleaning up of water sources including rivers,³⁴ the coastline,³⁵ and even

³¹ A.I.R, 1991 S.C. 420

³² “What Price for the Priceless?: Implementing the Justiciability of the Right to Water,” 120(4), *Harvard Law Review*, pp. 1067–1088 (2007)

³³ (2000) 10 SCC 664 at 767

³⁴ M.C. Mehta vs. Union of India AIR 1988 SC 1037

³⁵ S. Jagannath vs. Union of India (1997) 2 SCC 87

tanks and wells.³⁶ The court has also issued mandatory directions to the polluters to restore soil and groundwater from the unregulated discharge of effluents.³⁷ In the case of **A. P. Pollution Control Board vs. Prof. M. V. Nayudu**,³⁸ the court has applied the 'Precautionary Principle' to prevent the potential pollution of drinking water sources upon the setting up industries in their vicinity.

- **Right to Health**³⁹

Health is a state of complete physical, mental, and social wellbeing and not merely the absence of disease.⁴⁰ Sanitation and health are essentially linked together as the former is a mandatory condition to achieve the latter. The Constitution of India does not expressly recognize the fundamental right to health. The right to health as a fundamental right grew as an offshoot of environmental litigation initiated by environmental activists regarding environmental issues. Undoubtedly, the right to the environment was crucial because a polluted environment affects public health. A pollution-free environment as a fundamental right presupposes the right to health as a fundamental right. The explicit recognition of the fundamental right to health should have preceded the fundamental right to a good environment. However, the development of jurisprudence in this branch has been the reverse. The right to an unpolluted environment was recognized as a right in the first instance, after that, the right to public health and health care has been recognized as a right.⁴¹ The right to health is inherent to a life with dignity; therefore, Article 21 should be read along with Articles 38, 42, 43, & 47 to understand the nature of the state's obligation to ensure the effective realization of this right.

Poor sanitation is a social and public health problem and the cause of disease outbreaks. Several diseases that infected humans due to poor sanitation are typhoid, Diarrhoea, Cholera, hepatitis, Malnutrition, etc. These are the disease which obstructs

³⁶ Hinch Lal Tiwari vs. Kamala Devi, 2001 (3) A.W.C. 2398 (S.C.)

³⁷ Indira Khurana and Richard Mahapatra, 'Right to Water and Sanitation', WaterAid India, Available at: http://admin.indiaenvironmentportal.org.in/files/Righttowaterandsanitation_march_252009_draft.pdf (visited on: October 04, 2019)

³⁸ (2000) 10 SCC 664

³⁹ State of Punjab vs. Mohinder Singh Chawla (1997) 2 SCC 83.

⁴⁰ Preamble to the Constitution of the WHO as adopted by the International Health Conference (Official records of the WHO, no 2, P. 100)

⁴¹ Mihir Desai and Kamayani Bali Mahabal (eds.), *Health Care Case Law in India* (CEHAT and ICHRL, Mumbai, 2007)

the human right to life. The Supreme Court in **Vincent vs. Union of India**⁴² emphasized that a healthy body is the foundation of all human activities.

- **Right to Clean Environment:**

A hygienic environment is an integral part of the right to a healthy life as it is not possible to live with human dignity without a humane and healthy environment. Environmental pollution also amounts to a violation of the right to life under Article 21 of the Constitution of India. Poor sanitation directly affects the environment. Inadequate communal toilets, open defecation, exposed excreta and dry and wet waste can come in contact with the environment and contaminate it. In **Milk Men Colony Vikas Samiti vs. State of Rajasthan**,⁴³ the Supreme Court held that the 'right to life' means clean surroundings, which leads to a healthy body and mind. The term 'life' includes clean water and air, which are the attributes of the right to life.⁴⁴ Any disturbance of the basic environment element, namely, air, water, and soil, would be hazardous to life.⁴⁵ If anything endangers that quality of life, a citizen has the right to have recourse to Article 32 for removing the pollution of water and air.⁴⁶ Natural resources are a gift of nature, and the state must protect them as a trustee.⁴⁷ For this, the state further delegated the responsibility to the local bodies to protect the natural resources.

The Rajasthan High Court, in **L.K. Koolwal vs. State of Rajasthan & Others**⁴⁸ interpreted the Rajasthan Municipality Act, 1959, that it is the duty of municipal bodies to make reasonable provisions for street cleaning and removal of public nuisance.⁴⁹ In another case, **Janki Nathubhai Chhara vs. Sadarnagar Municipality**,⁵⁰ two residents living in Chharanagar, part of the Sadarnagar Municipality, complained about the absence of underground drainage, due to which their colony submerge during monsoon and causes unhygienic conditions. The court persuaded the municipality and state government to build an underground sewerage

⁴² 1987 AIR 990 : 1987 SCR (2) 468.

⁴³ (2007) 2 SCC 413.

⁴⁴ F.K. Hussain vs. Union of India and Others, (1990) AIR Ker 321

⁴⁵ Subhash Kumar vs. State of Bihar, AIR 1991 SC 420

⁴⁶ *ibid*

⁴⁷ M.C. Mehta vs. Kamal Nath, (1997) 1 SCC 388

⁴⁸ AIR 1998 Raj 2

⁴⁹ Philippe Cullet, Sujit Koonan, *et al.*, *The Right to Sanitation in India: Critical Perspective*, p.207, (Oxford university Press, 2019)

⁵⁰ A.I.R. 1986 Guj. 49.

and drainage system to deal with monsoon flooding. The court also asked the Water Supply and Sewerage Board to undertake and execute the work as an emergency measure.

In **M.C. Mehta vs. Union of India & Others**,⁵¹ also known as the Ganga pollution case, the court gave an order to close the tanneries and passed a series of directions to all the municipal bodies to take measures to prevent the pollution of the river Ganga. Here, the court said that the safe disposal of sewage is the primary responsibility of Kanpur Municipality. Additionally, the court noted that the pollution control boards, under the Water (Prevention and Control of Pollution) Act, 1974, and the Environment Protection Act, 1986, are also responsible for monitoring water pollution. The court further directed the municipalities to perform their statutory duty and ensure that sewage from the towns would not be emptied into the Ganga without first treating it.

In **Vellore Citizens Welfare Forum vs. Union of India**,⁵² the court issued several guidelines to deal with the problems caused by tanneries, which were polluting all water resources, rivers, canals, underground water, and agricultural land. In the case of **M.C. Mehta vs. the State of Orissa**,⁵³ the Orissa High Court, while responded to a petition regarding the impact of clean drinking water in Cuttack, constituted a committee of senior government officials to ensure provisions of clean drinking water and improvement in sanitation.

These cases show that the judiciary has demonstrated its dynamism in developing new systems to deal with drainage problems to improve sanitation. The impact of judicial activism can thus be summarized as under:⁵⁴

- (i) The right to live in a healthy environment and sanitary conditions is a fundamental right under Article 21 of the Constitution of India.
- (ii) Judiciary has realized the futility of the traditional sentencing policy, based on the imposition of fines and penalties for breaches of primary duties.

⁵¹ AIR 1988 SC 1115.

⁵² AIR 1996 SC 2721.

⁵³ AIR 1992 Ori. 225

⁵⁴ Kiran Jain, 'Drainage and Sanitation: Law and Policy, vol.33, *Journal of the Indian Law Institute*, pp. 553-588 (1991)

(iii) There is a shift from the Anglo-Saxon legal system of the adversary justice system to the public interest litigation by liberalizing *locus standi* to come to the court to protect the environment and public health through sound sanitary conditions.

(iv) Statutory bodies cannot take the shelter of lack of funds or staff in discharging their primary duties.

- **Right to Dignity:**

It is constitutionally recognised that the right to dignity is an essential and integral facet of the right to life. Without the right to dignity, all other fundamental rights also become meaningless.⁵⁵ Both Central Government and State governments have to ensure all basic needs and facilities of life, Sanitation, Education, Drinking water, Food, and other whichever required to develop and enhance human dignity. In the case of **Khadak Singh vs. State of Uttar Pradesh**,⁵⁶ the Supreme Court, while elaborating the term dignity, held that the right to life means something more than just physical survival. The Supreme Court further expanded the meaning of the right to life, which is nothing but the right to live with human dignity and free from exploitation.⁵⁷ The court also included the protection of health and strength of workers (men and women) and the tender age of the children against abusive opportunities and facilities under the life with dignity.⁵⁸

The right to dignity can closely be observed in the case of sanitation workers, including Manual Scavengers. The term ‘manual scavenging’ refers to unsafe cleaning of drains, sewer lines, septic tanks, and latrine pits. Because of this occupation, the dignity of manual scavengers has always been at stake, and discrimination continues even today. The practice of manual scavenging has been banned by The Employment of Manual Scavenger and Construction of Dry Latrines (Prohibition) Act in 1993, but it had little effect on the ground level. In 2003, Safai Karamchari Andolan filed a petition in the Supreme Court for implementing the 1993 Act. Safai Karamchari Andolan also asked the court to declare that manual scavenging violates the right to equality and right to life and also to declare the

⁵⁵ Municipal Council, Ratlam v. Shri Vardhichand. 1 SCR 97. 1981.

⁵⁶ AIR 1963 SC 1295

⁵⁷ Bandhua Mukti Morcha v. Union of India, 1984 AIR 802, 1984 SCR (2) 67.

⁵⁸ Consumer Education and Research Centre and others v. Union of India, AIR 1995 SC 922

practice as a form of untouchability and forced labour, both abolished by the Constitution.⁵⁹ The failure of the laws was exposed by the cases filed by an association of workers, NGOs, and public-spirited individuals in Gujarat (2006),⁶⁰ in Delhi (2007), and Chennai (2008)⁶¹ High Courts, and drew the attention of the courts to manual scavenging and sewer deaths. In the **National Campaign for Dignity & Rights of Sewerage Allied Workers vs. M.C.D & Others**,⁶² the Supreme Court said it was the constitutional duty of the courts to protect the rights of those who enter into the manholes or sewers for cleaning work. The court also criticized the government and the state machinery for being insensitive to the safety and well-being of those who are forced to work in adverse conditions due to extreme poverty and regularly face the threat of being deprived of their lives. In its landmark judgement, given in the case of **Delhi Jal Board vs. National Campaign for Dignity and Rights of Sewerage and Allied Workers & others**,⁶³ the Supreme Court has identified and exposed the apathy and plight of the underprivileged sections of society, especially the manual scavengers and sewage workers. The Apex Court observed that manual scavengers and sewage workers risk their lives by going into the drainage without any safety equipment and protection and are deprived of the fundamental rights of life, liberty and dignity. Therefore, the Court directed to the civic bodies to provide and ensure free medical care facilities to sewage workers, payment of compensation to sewage workers suffering from occupational diseases, payment of statutory dues like provident fund, gratuity etc., to the dependents of such sewage workers, protective gear and equipment to the workers going to the drain, etc.

Above cases prompted the government to bring in a new law, i.e., The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. The Act prohibits all persons, local authorities, or any agency from engaging or employing, either directly or indirectly, any person from hazardous cleaning of a sewer or a septic tank.⁶⁴ Sadly, despite such constitutional safeguards, manual scavengers remain victims of discrimination. The current scheme of legislation failed

⁵⁹ Arkaja Singh and Aditya Unnikrishnan, 'Why manual scavengers in India haven't got their rights despite laws, judiciary intervention', *The Wire*, February 26, 2020.

⁶⁰ Praveen Rashtrapal, *IRS & Others vs Chief Officer, Kadi Municipality*, (2006) 3GLR 1809

⁶¹ A. Narayan vs The Chief Secretary, Government of Tamil Nadu & Others, WP No. 24403 of 2008 (High Court of Madras, Judgment dated 20 November 2008)

⁶² Writ Petition (Civil) No. 5232/2007

⁶³ Civil Appeal NO. 5322 of 2011, arising out of Special Leave Petition (Civil) No. 12345 of 2009.

⁶⁴ The Prohibition of Employment as Manual Scavenger and their Rehabilitation Act, 2013. Sec. 7

to protect the dignity of manual scavengers. In the case of the **Board of Trustees, Port of Bombay vs. Dilip Kumar**,⁶⁵ the apex court held that the right to live with dignity includes the right to one's reputation, as the loss of oneself reputation would disable one from enjoying the right to live with dignity.

The statutory framework relating to the attainment of the right to sanitation also recognizes the need to ensure the dignity and privacy of women and children, such as statutes address sanitation needs in workplaces and provide for separate toilets for women.⁶⁶ For the girl child, there are some specific norms for schools to provide separate toilet facilities.⁶⁷

- **Right to Education:**

Education is something without which one cannot live well, decently, and with dignity. In the case of **Mohini Jain vs. State of Karnataka**⁶⁸ and **Unni Krishna vs. State of Andhra Pradesh**,⁶⁹ the Supreme Court ruled that education rights are the fundamental right because they are derived directly from the right to life. In 2002, **Article 21A**⁷⁰ was incorporated under the Constitution of India, and the Right to Education was expressly recognized as the fundamental right.

Just as education is important, the school infrastructure with proper facilities is also important. That is why the right to sanitation is also linked with the Right to Education. Without having a proper hygienic environment, the learning place/school may cause multiple problems for school-going children. In the case of **Society for Unaided Private Schools of Rajasthan vs. Union of India and Another**,⁷¹ the Supreme Court upheld that private schools must also provide adequate infrastructure in schools including toilets.

Girls and boys, including those with disabilities, are likely to be affected in different ways by inadequate water, sanitation, and hygiene conditions in schools and this may contribute to unequal learning opportunities. Lack of adequate sanitation in schools is a barrier to school education, especially for girls. Lack of adequate,

⁶⁵ 1978 S. C. C. (Cri.) 468

⁶⁶ Sec. 18 (b) of Contractual Labour (Regulation and Abolition) Act, 1970, Sec. 33 of the Building and the Other Construction Workers (Regulation of Employment and Condition of Service)

⁶⁷ The Right of Children to Free and Compulsory Education Act, 2009

⁶⁸ AIR 1992 SC 1858.

⁶⁹ AIR 1993 SC 2178.

⁷⁰ The Constitution (Eighty-sixth Amendment) Act, 2002

⁷¹ (2012) 6 SCC 1

separate private, and secure toilets and washing facilities may be one of the major discouraging factors for parents to keep their girls at home.⁷² Due to this factor, the presence of girls in schools is low compared to the male child. In the case of **Environmental & Consumer Protection Foundation vs. Delhi Administration & Others**,⁷³ the Supreme Court directed all States and Union Territories to ensure that all schools, whether private or state-run, provide proper toilet facilities to boys and girls and safe drinking water. The Court further directed that “if it is not possible to have permanent toilets, at least temporary toilets be provided in the schools on or before 30th November 2011 and permanent toilets be made available by 31st December 2011.”⁷⁴ In another case of **J.K. Raju vs. State of Andhra Pradesh**,⁷⁵ the Supreme Court said that the pathetic state of the toilets in the schools might lead to severe health problems. The Court further stated that, “toilets meant for schools, which are co-educational and girl’s schools have to have such toilets which are clean and acceptable having proper facilities.”

The dropout rates of girls from schools spikes when the girls start menstruating. Most schools have only a single toilet for both boys and girls, usually not maintained and extremely dirty. This is especially true in adolescent girls who skip school for five to six days every month during menstruation. Single toilets increase not only the risk of disease transmission, but also sexual harassment. It hampers their education right and, in many cases, even leads them to drop out of school.⁷⁶ The dropout rate for girls at the elementary level is 4.10%, which rises to 16.88% at the secondary level. The figures are substantially higher for girls from vulnerable groups (19.05% for SC and 24.4% for ST groups). At the elementary level, the retention rate of girls is 70.6%, which drops to the secondary level is 55.5%. Due

⁷² Raju Majhi, ‘Right to sanitation: a human right,’ vol. 6(6), *Forensic Research & Criminology International Journal*, pp.535–536, (2018)

⁷³ (2012) INSC 584

⁷⁴ *Environmental & Consumer Protection Foundation vs. Delhi Administration & Others*, 2012, INSC 584

⁷⁵ (2015) 12 SCC 99

⁷⁶ J. Adams, J. Bartram *et.al.* (ed.), ‘Water, Sanitation and Hygiene Standards for Schools in Low-cost Settings,’ World Health Organization (2009). Available at: https://www.who.int/water_sanitation_health/publications/wash_standards_school.pdf (visited on: February 17, 2020)

to existing attitudes, only one in every three girls in India completes school education age-appropriately.⁷⁷

- **Right to Privacy:**

The desire for privacy during bathing and defecation is different in girls and women than in men. Thus, the non-availability of proper sanitation facilities created a helpless situation for females and led to the risk of faecal-orally transmitted diseases, urogenital tract infections, urinary incontinence, and chronic constipation.⁷⁸ In rural areas, women are the worst sufferers, as they have to go out before sunrise or after sunset for want of privacy. Besides, women and girls often face sexual harassment and many other risks due while searching a place to defecate. Due to which they often suffer mental stress.⁷⁹ Many girls, particularly adolescents who are menstruating, don't go to school because of a lack of privacy, unavailability of sanitary disposal facilities, and water shortages.

- **Right to Shelter**

Living on the streets without any form of shelter largely increases the vulnerability of the homeless to abuse, sexual violence, injury, disease, mental illness, and death. Many of these deaths are preventable, especially if the homeless had access to adequate housing, food, water, sanitation, and healthcare facilities. It must be noted that there is no specific constitutional provision or national and state legislation that address the issue of homelessness or inadequate housing in the country.⁸⁰ The right to shelter is enshrined as a fundamental right under Article 21 of the Constitution of India. In case of **Chameli Singh vs. State of Uttar Pradesh**,⁸¹ the Supreme Court held that shelter for the human being is not mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally and spiritually.

⁷⁷ U-DISE Flash Statistics 2016-17 (Provisional data as on 30 September, 2016) National Institute of Educational Planning and Administration (2018). Available at: <https://www.misinfo.co.in/2020/01/u-dise-data-2019-20.html> (visited on: June 21, 2020)

⁷⁸ A.B. Mudey *et al.*, A Cross-sectional Study on Awareness Regarding Safe and Hygienic Practices amongst School Going Adolescent Girls in Rural Area of Wardha District, India, 2(2), *Global Journal of Health Science*, pp. 225-231, (2010)

⁷⁹ Madhusudan N. Pandya and Parag Sunil Shukla, 'Role of Women Led Sanitation in Community Development,' Vol. 7, *Journal of Content, Community & Communication*, pp. 71-77, (2018)

⁸⁰ Special Rapporteur on the Right to Adequate Housing: Questionnaire on the Right to Life and the Right to Adequate Housing, HOUSING AND LAND RIGHTS NETWORK (INDIA). Available on: <https://www.ohchr.org/en/issues/housing/pages/housingindex.aspx> (visited on: March 06, 2019)

⁸¹ AIR 1996 SC 1051

Therefore, the right to shelter includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, sanitation, and other civil amenities like roads to access daily avocation.

The urban poor face problems of housing, shelter, water, sanitation, health, education, social security and livelihoods, and special needs of vulnerable groups like women, children and the elderly. In the case of **Sudama Singh & Others vs. Government of Delhi & Another**,⁸² the Supreme Court observed that poor people who live in slums, which are overcrowded, often polluted and lack basic civic amenities like clean drinking water, sanitation and health facilities. To improve sanitation standards, it was suggested by the court to construct community toilets where individual toilets are not possible, to extend sewerage networks to slum areas and connect toilet outlets with sewer lines, and community management of toilets in common places.

4.1.2 Right to Sanitation under Directive Principle of State Policy (DPSP):

Directive Principles of State Policy contained in Part IV of Constitution of India. These principles gave direction to the legislature and the executive in India to exercise their power. The framers of the constitution have laid down certain social, economic and political principles suitable to peculiar conditions prevailing in India. The union and the states should keep in mind those principles while making laws.⁸³

Right to sanitation being a constitutional right casts a duty upon government to make policies and schemes to provide facilities to everyone.⁸⁴ Because natural resources are a gift of nature, and as a trustee, the state is bound to protect them and ensure that benefits of these measures reach to the general public, the beneficiary, without any discrimination.⁸⁵ In addition, inadequate sanitation may pollute the environment, degrade environmental resources (air, water, and land), and infringe the right to clean environment. Hygienic and clean environment is an integral facet of right to healthy life, therefore, it would be impossible to live with human dignity

⁸² 168 (2010) DLT 218

⁸³ J. N. Pandey '*Constitutional Law of India*', P 385, (Central Law Agency, Allahabad, 44th edn., 2007,)

⁸⁴ Realising the human rights to water and sanitation: A handbook, Catarina de Albuquerque, the UN Special Rapporteur on the human right to safe drinking water and sanitation. Available at: <https://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/Handbook.aspx> (visited on: March 08, 2019)

⁸⁵ M.C. Mehta vs. Kamal Nath (1997) 1 SCC 388

without a humane and healthy environment.⁸⁶ The Supreme Court also held that the right to live with human dignity enshrined in Article 21 derives its life and breathe from the directive principles of State policy.⁸⁷

The Government of India, after adopting the United Nations Conference on the Environment in Stockholm, 1972 (**Stockholm Declarations**),⁸⁸ the first world conference to make the environment a major issue, made some express provisions for the protection and promotion of the environment. Also, introduce Article 48A and 51A (g) under the Directive Principles of State Policy and the Fundamental Duties, respectively, by the Constitution 42nd Amendment Act, 1976.⁸⁹

In **Virender Gaur vs. State of Haryana**,⁹⁰ after referring to the Stockholm Declaration 1972, Article 48 A, Article 47, Article 51A (g), and Article 21 of the Constitution of India, the Supreme Court laid down ‘Principle 1’⁹¹ that:

“The word environment is of broad spectrum, which brings hygienic atmosphere and ecological balance within its ambit. Therefore, this is not only the duty of the State but also the duty of every citizen to maintain a hygienic environment. The State, in particular, has a duty in that behalf and to shed its extravagant unbridled sovereign power to forge in its policy to maintain ecological balance and hygienic environment.”

Characterizing Art. 21 as the heart of fundamental rights, the Court gave it an expanded interpretation. **Bhagwati J.** observed in the case of **Bandhua Mukti**

⁸⁶ Virender Gaur vs. State of Haryana (1995) 2 SCC 577.

⁸⁷ Bandhua Mukti Morcha vs. Union of India, 1984 AIR 802, 1984 SCR (2) 67.

⁸⁸ In the year 1972, Prime Minister late Mrs. Indira Gandhi attended the United Nations Conference on Human Environment and Development at Stockholm. In that conference the following two resolutions were passed which are known as the Magna Carta of the environmental law:

- (a) Man has the fundamental right to freedom, equality and adequate conditions of life in an environment of quality that permits a life of dignity and well-being; and
- (b) Man bears a solemn responsibility to protect and improve the environment for present and future generations.

⁸⁹ Raju Majhi, ‘Right to sanitation: a human right,’ 6(6), *Forensic Research & Criminology International Journal*, pp.535–536, (2018)

⁹⁰ (1955) 2 SCC 577.

⁹¹Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration), 1972, **Principle 1:**

‘Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations.’
Available at: https://legal.un.org/avl/pdf/ha/dunche/dunche_e.pdf (visited on: March 09, 2019)

Morcha vs. Union of India⁹² that this right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39⁹³ and Articles 41 and 42, and at the least, therefore, it must include protection of the health and strength of workers, men, and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief.⁹⁴

Article 47⁹⁵ directs the state that it is a primary duty to raise the level of nutrition and the standard of living of its people and improve public health. In the case of **Municipal Council, Ratlam vs. Vardhichand & Others**,⁹⁶ the municipal corporation was prosecuted by some citizens for not clearing up the garbage. The corporation took up the plea that it did not have money. While rejecting the plea, Krishna Iyer J. observed: “The State will realize that Art. 47 makes it a paramount principle of governance that steps are taken for the improvement of public health as amongst its primary duties.”⁹⁷ Further, the court elaborated the responsibilities of the Municipal Corporation in maintaining the civic hospital and the other basic amenities in the city and held that under Art. 47, it is the responsibility of the State to raise the level of nutrition and the standard of living of its people and the improvement of public health.⁹⁸

⁹² 1984 AIR 802, 1984 SCR (2) 67.

⁹³ **The Constitution of India**, Article 39, requires the state, in particular, to direct its policy towards securing:

- e. That health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength, and
- f. That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

⁹⁴ **Bandhua Mukti Morcha vs. Union of India**, 1984 AIR 802, 1984 SCR (2) 67.

⁹⁵ **The Constitution of India**. Article 47 provides, The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

⁹⁶ AIR 1980 SC 1622

⁹⁷ *ibid.*

⁹⁸ **Citizens Action Committee, Nagpur vs. Civil Surgeon, Mayo (General) Hospital, Nagpur and Ors**, AIR 1936 Bom. 136

The High Court of Madhya Pradesh in **Hamid vs. State of Madhya Pradesh**⁹⁹ held that the citizens have the right to clean and safe drinking water, and it is incumbent on the state to improve the health of the public by providing unpolluted drinking water. The court also held that the state was liable to pay for the damages caused by the consumption of polluted water.

Thereafter, a new provision in the form of Article 48A was also incorporated in the Directive Principles of State Policy, regarding the protection of the environment by the 42nd Constitutional Amendment in 1976. According to the Art. 48A, “The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.”

4.1.3 Right to Sanitation under Fundamental Duties:

Every right comes with duty. In this regard, Article 51A was incorporated by the 42nd Constitution amendment as the Fundamental Duties under the Constitution of India. These duties are for the citizens and the state. Article 51-A classifies duties towards self, duties towards the environment, and towards the nation. Sub-clause (g) of Article 51A¹⁰⁰ is important because it imposes a duty on every citizen of India to protect and improve the natural environment.

The scope of Article 51A(g) was examined by the High Court of Rajasthan in the case of **L. K. Koolwal vs. State of Rajasthan**.¹⁰¹ In this case, the Municipal Authority was charged with the primary duty, under the Rajasthan Municipalities Act, 1959, “to clean public streets, sewers and all spaces and places which are open to the enjoyment of the public. Further, removing noxious vegetation and all public nuisances and remove fifth, rubbish, night soil, odour, or any other noxious or offensive matter” is also included under their primary duty. In **M.C Mehta vs. Union of India**,¹⁰² the Supreme Court relied on Article 51A (g) and order that,

“It is the duty of the Central Government to direct all the educational institutions throughout India to teach at least for one hour in a week lesson relating to

⁹⁹ AIR 1996 MP 191

¹⁰⁰ **Article 51 A (g) of the Constitution of India**- “It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures.”

¹⁰¹ AIR 1988 Raj. 2.

¹⁰² M.C. Mehta & Anr. vs Union Of India & Ors., 1987 SCR (1) 819

the protection and the improvement of the natural environment including forests, lakes, rivers, and wildlife in the first ten classes.”

The court further said that the Central Government should get textbooks written for the stated purpose and distribute them to the educational institutions free of cost. Children should be taught about the need to maintain cleanliness commencing with the cleanliness of the house and the streets in which they live. Clean surroundings lead to a healthy body and a healthy mind. Training of teachers who teach this subject by introducing short-term courses for such training shall also be considered. This should be done throughout India.¹⁰³

4.1.4 Right to Sanitation and Role of Panchayat and Municipality under the Constitution of India

Sanitation is a state subject under the Constitution of India and it is mostly dealt with at the local level by local bodies. The Constitution of India provides legislative and executive powers to the states in relation to sanitation services. Apart from the Union and the states, there is now a third tier in the Constitutional structure created by the 73rd and 74th Amendments, namely, local bodies of governance at the village and city levels, i.e. the village panchayats and *nagarpalikas*. The Eleventh and Twelfth Schedules of the Constitution lay down subjects allotted to panchayats and *nagarpalikas*. These subjects includes drinking water, health and sanitation, family welfare, women, child development, and social welfare etc.

Article 40 of the Indian Constitution casts a duty on the States to organize village panchayats and endow them with such powers as may be necessary to enable them to function as units of self-government.¹⁰⁴ This Directive Principle has now been translated into action through the 73rd and 74th Constitutional Amendments, passed by Parliament in December, 1992. Through these amendments, local self-governance was introduced in rural and urban India. The Acts came into force as the Constitution (73rd Amendment) Act, 1992 on April 24, 1993 and the Constitution (74th Amendment) Act, 1992 on June 1, 1993. These amendments added two new parts to the Constitution, namely, 73rd Amendment added Part IX titled “The Panchayats” and 74th Amendment added Part IXA titled “The Municipalities”. The Local bodies ‘Panchayats’ and ‘Municipalities’ came under Part IX and IXA of the Constitution

¹⁰³M.C. Mehta & Anr. vs Union Of India & Ors., 1987 SCR (1) 819

¹⁰⁴The Constitution of India. Art. 40

after 43 years of India becoming a republic. Under these two parts, we have as many as 34 new Articles - 243 to 243ZG and two new schedules viz. schedules 11 and 12. The 73rd amendment gives constitutional recognition to the panchayats and municipalities. Thus, to the union and the states, a third tier of governmental instrumentalities has been added.¹⁰⁵

- **The Panchayati Raj Institution (PRIs) and Sanitation**

Panchayats are doing significant work in the areas of Basic Minimum Services such as safe drinking water, sanitation, Primary health care etc. furthermore, it was realized that unless all the PRIs namely, the Gram Panchayats, the *Panchayat Samiti* and the *Zilla Parishads* are involved actively in delivery of these basic services to the rural population, nothing substantial can be achieved in this field.¹⁰⁶

Many water points and sanitation facilities were established in the villages for the benefit of the rural community after spending huge amounts on the rural community. Yet several of these facilities were under-utilized for want of care, maintenance and proper management at village level. It was observed that most of the problems of water and sanitation in the villages were not due to failure of technology but due to non-participation of the community. PRIs can play a big role in installation, operation and maintenance of water and sanitation facilities in villages.¹⁰⁷

The Constitution (Seventy-Third Amendment) Act, 1992 was enacted to strengthen the panchayat system in villages to give powers to the village panchayat to function as institution of self-government. The idea was to make panchayats as vibrant units of self-government and local administration in the rural areas to subserve the people living there. The amendment is of historical value as it is designed to establish strong, effective, and democratic local administration at the grass-root level. It gave legitimacy to Panchayat institutions and gave power of development and financial power for their effective functioning. The amendment delineated drinking water and sanitation as the responsibility of Panchayati Raj Institutions (PRIs), which

¹⁰⁵ Kailash Rai, *Constitutional Law of India* (Central Law Publication, New Delhi, 11th edn., 2013)

¹⁰⁶ Government of India, Rural Water Supply and Sanitation Programme, Guide on Role of Panchayati Raj Institutions (Ministry of Rural Areas and Employment). Available at: <https://jalshakti-ddws.gov.in/sites/default/files/GUIDEONROLEOFPANCHAYATIRAJINSTITUTIONSFORPANCHAYATMEMBERS.pdf>(visited on: July 23, 2019)

¹⁰⁷ *ibid*

includes Gram Panchayats (GPs).¹⁰⁸ Further, to provide an enabling environment, GPs were advised to use any funding source, including the 14th Finance Commission (FFC) allocation for WASH services, including in schools and *Anganwadis*.¹⁰⁹

Part IX of the Constitution of India, titled “The Panchayats,” covers provisions from **Article 243 to 243(O)**. **Article 243 G** states that the legislature of a State may endow the Panchayats with necessary power and authority in relation to matters listed in the Seventh Schedule.¹¹⁰ The 11th Schedule ensures the distribution of powers of 29 functional items between the State legislature and the Panchayats. The entries in this schedule having direct relevance to health and sanitation are as follows:

- Drinking water
- Health and sanitation including hospitals, primary health centers & dispensaries
- Women and child development
- Social welfare, including the welfare of the handicapped and mentally retarded
- Water supply for domestic industrial, and commercial purpose
- Public health, sanitation conservancy, and solid waste management
- Regulation of slaughterhouses and tanneries.

Entry 23 of the Eleventh Schedule provide for ‘health and sanitation’. It means that at the village, intermediate and district levels Panchayats have the primary duty to deal with the sanitation problems. The PRIs are entrusted with the responsibility of formulation and implementation of the programs and policies regarding all the subjects provided under the Eleventh Schedule. The Ministry of Panchayati Raj played a more visible role in strengthening Gram Panchayats ability to provide WASH services. In this regard, the village Panchayat/ Gram Sabha shall constitute a water and sanitation committee (WATSAN). In addition, there shall be a Village Water and Sanitation Committee (VWSC), which shall be constituted as a sub-committee of Gram Panchayat, for providing support in terms of motivation,

¹⁰⁸ M. P. Jain, ‘*Indian Constitutional Law*,’ p1189, (Lexis Nexis Butterworths Wadhwa, 6th edn., 2012)

¹⁰⁹ Sujoy Majumdar and Swati Manchikanti, ‘Gram Panchayats: Beyond ODF, *Yojana*, November, 2019

¹¹⁰ D.D. Basu, *Shorter Constitution of India*, (2003), p.327.

mobilization, implementation and supervision of the program. The bottom-up or micro-level planning process develops self-confidence among the community.¹¹¹

- **The Municipality (Urban Local Bodies (ULBs) and Sanitation**

The constitution of India directs the state through Article 40 to organize panchayats but does not give a corresponding duty to the state with regard to the creation of urban bodies. The only reference to urban self-government is to be found in two entries i.e. Entry 5 of the State List and Entry 20 of the Concurrent List under Seventh Schedule. Entry 5 says that “Local government, that is to say, the constitution and powers of Municipal Corporations, improvement trust, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration.” **Entry 20** of the concurrent list reads, “Economic and social planning.” Urban planning would fall within the ambit of both Entry 5 of the state list and 20 of the concurrent list.

In 1985, the Ministry of Urban Development was set up at the union level. Later on The Constitution (74th Amendment) Act, Municipalities (Urban local Government) was passed in 1992 and it came into force on 1 June 1993. It has introduced a new part namely, Part IXA in the Constitution, which deals with the issues relating to municipalities. The amendment has accorded constitutional status to the municipal bodies by initiating a process of democratic decentralization with the objective of making urban governance more responsive. A municipality may be of three types in terms of **Article 243-Q**,¹¹² these are Nagar Panchayat, Municipal Council and Municipal Corporation. An illustrative list of functions that may be entrusted to the municipalities has been incorporated in the Twelfth Schedule (**Article**

¹¹¹ Government of India, Rural Water Supply and Sanitation Programme, Guide on Role of Panchayati Raj Institutions (Ministry of Rural Areas and Employment). Available at: <https://jalshakti-ddws.gov.in/sites/default/files/GUIDEONROLEOFPANCHAYATIRAJINSTITUTIONSFORPANCHAYATMEMBERS.pdf> (visited on: July 23, 2019)

¹¹² The Constitution of India:

Article 243-Q (1) provides for the establishment of the following three types of Municipalities in every State -

- (a) A Nagar Panchayat for a transitional area, that is to say, an area in transition from a rural area to an urban area. It may be called by any name.
- (b) A Municipal Council for a smaller urban area.
- (c) A Municipal Corporation for a large urban area.

243 W)¹¹³ of the Constitution. Responsibility for the planning and delivery of urban services, including sanitation, lies with urban local bodies, under local municipal laws and the 74th Constitutional Amendment Act, 1992. **Entry 6** of the Twelfth Scheduled provides the provisions related to the Public health, sanitation conservancy and solid waste management.¹¹⁴

The above-mentioned constitutional provisions impose two-fold responsibilities towards the right to sanitation. On the one hand, they give directive to the State for the protection and improvement of environment and on the other, they cast a duty on every citizen to help in the preserving of natural environment.¹¹⁵ Therefore, it is not only the duty of the State but also the duty of every citizen to maintain hygienic environment. The State, in particular has duty on that behalf and to shed its extravagant unbridled sovereign power and to forge in its policy to maintain ecological balance and hygienic environment.

4.2 LEGISLATIVE PROVISIONS RELATING TO RIGHT TO SANITATION UNDER DIFFERENT STATUTE

Sanitation is a complex area in terms of law because neither a statute provides a framework to the sanitation sector, through which the right to sanitation could be realized, nor a framework law governing the sanitation sector in general. There is a multiplicity of legal instruments addressing some parts of the sanitation sector with a narrow understanding of sanitation. There are provisions concerning sanitation from the local to the national level. Further, there are different policies and laws for rural

¹¹³ Article 243 W provides that the legislature of a State, subject to the provisions of the Constitution, may by law endow -

- (a) the Municipalities with such power and authority as may be necessary to enable them to Function as institutions of self-government and such law may contain provision for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to -
 - i. the preparation of plans for economic development and social justice;
 - ii. the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule.
- (b) the committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in Twelfth Schedule.

¹¹⁴ D.D. Basu, *Shorter Constitution of India*, (2003), p.327.

¹¹⁵ H. N. Tiwm, '*Environmental Law*', p80 (Allahabad Law Agency, 3rd edn., 2005)

and urban areas. Also, a significant part of the broader sanitation framework is found in the area of law that has a close association with sanitation. These include the Water (Prevention and Control of Pollution) Act, 1974 and the Environment Protection Act, 1986, which gives powers to the state pollution control boards to take appropriate action regarding sewage treatment and its disposal. Other Acts that make mandatory provisions to provide sufficient, conveniently situated, and accessible latrines, include the Right of Children to Free and Compulsory Education Act, 2009, the Rights of Persons with Disabilities Act, 2016, the Factories Act, 1948, etc.¹¹⁶

Therefore, we can say that there are various sanitation-related provisions in various legislations. Still, no legislation considers sanitation as its primary subject matter and seeks to regulate it comprehensively.

4.2.1 Environmental Laws and Right to Sanitation

A clean environment is an essential factor contributing to the health, productivity, and welfare of the people. Sanitation, water, and public health is directly linked with the environment. Proper and safe treatment and disposal of wastes, sewage, human faeces, etc., form an integral component of sanitation. However, untreated and partly treated municipal sewage is often disposed of on land or into water bodies, which poses a major environmental and health hazard. In the absence of separate laws on sanitation, the central government enacted the pollution control laws, notably the Water (Prevention and Control of Pollution) Act, 1974 and the Environment (Protection) Act, 1986, and rules framed under these laws. These laws provide the legal framework for sewage treatment and water pollution control caused by the disposal of untreated sewage and wastes into the water.¹¹⁷

- **Water (Prevention and Control of Pollution) Act, 1974**

The Water (Prevention and Control of Pollution) Act¹¹⁸ [herein after the Water Act] aims to prevent and control water pollution and restore water quality by preventing the illegal discharge of faecal sludge directly into the water bodies. It gives powers to water boards to set standards and regulations for the prevention and control

¹¹⁶ P. Cullet, S. Koonan, *et al.*, *The Right to Sanitation in India: A Critical Perspective*, (Oxford University Press, 2019)

¹¹⁷ P. Cullet and L. Bhullar (eds.), *'Sanitation Law and Policy in India: An Instrument to Basic Instruments'*, (Oxford University Press, New Delhi, 2015)

¹¹⁸ Water (Prevention and Control of Pollution) Act, 1974 (Act No. 6 of Year 1974)

of pollution. This act sets up Central Pollution Control Boards and related State boards and gives them the power to monitor, control, and give directions related to sewage and plant effluents.¹¹⁹ The Act also imposes an obligation to Urban Local Bodies (ULBs) regarding the treatment and disposal of sewage effluents.¹²⁰ The ULBs are required to obtain a 'consent to establish' and a 'consent to operate' a sewage treatment plant, from the concerned State Pollution Control Board (SPCB) of Pollution Control Committee (PCC), before the commencement of construction and operation.¹²¹

Section 25 and 26 of the Water Act says that no industry or operator process or any treatment and disposal system can be established without the previous consent of the State Board. In addition, no industry or process can discharge sewage or trade effluent into a stream or well or sewer or land in excess of the standards & without the consent of the Board. Whoever contravenes the provisions of section 25 or section 26 shall be punishable with imprisonment for a term, which shall not be less than one and half years but may extend to six years with a fine under section 43 and 44 of the Water Act. Consequently, the Board can issue directions for closure of industry & disconnection of electricity in case of persistent defiance by any polluting industry under Section 33-A of the Water Act.¹²²

- **Environment Protection Act, 1986**

The Environment (Protection) Act [herein after EPA] was enacted in the year 1986.¹²³ The Act is one of the most comprehensive legislation with a pre-text to protect and improve the environment. It was enacted to protect and improve the environment and for matters connected with the environment. The main objective of the Act is to provide the protection and improvement of the environment and to implement the decisions made at the UN Conference on Human Environment held in

¹¹⁹ FloreLafaye de Micheaux, 'Review of draft Indian water legislation and comparison with the European Water Framework Directive', (Publications Office of the European Union, Luxembourg, 2105). Available at: https://eeas.europa.eu/archives/delegations/india/documents/report_review_india-eu_water_legislation.pdf (visited on: August 1, 2020)

¹²⁰ The water (Prevention and Control of Pollution) Act, 1974, Section 2(g):

"Sewage effluent means effluent from any sewerage system or sewage disposal works and includes sullage from open drains.

¹²¹The Water (Prevention and Control of Pollution) Act, 1974. Sec.25

¹²² *ibid.* Sec. 33-A

¹²³ The Environment (Protection) Act, 1986 (ACT NO. 29 OF 1986)

Stockholm in June 1972, that it is the duty of signatory parties to enact a general law on the areas of environmental protection.¹²⁴

In this Act, the Central Government shall have the power to take all such measures as it deems necessary or expedient to protect and improve the quality of the environment and prevent controlling and abating environmental pollutants.¹²⁵ According to the Act, Urban Local Bodies are also prohibited from discharging or permitting the discharge of pollutants in excess of the prescribed standards.¹²⁶ For urban local bodies to discharge their obligations, the State Pollution Control Board (SPCB) or Pollution Control Committee (PCC) is required to prescribe standards.

Chapter III of the EPA deals with the prevention, Control, and abatement of Environmental Pollution. Some important provisions of this chapter provide that,

- No person, carrying on any industry, operation or process, shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed.¹²⁷
- No person shall handle or cause to be handled any hazardous substance except in accordance with such procedure and after complying with such safeguards as may be prescribed.¹²⁸

Section 15 provides for Penalties for contravention of the provisions of the Act and the Rules, Orders, and Directions. Whoever fails to comply with or contravenes any of the provisions, rules, orders, or directions of this Act shall be punishable with imprisonment for a term, which may extend to five years or with fine, which may extend to one lakh rupees, or with both.¹²⁹ If the failure or contravention continues beyond a period of one year after the date of conviction, the offender shall be punishable with imprisonment for a term, which may extend to seven years.¹³⁰ The Supreme Court also, after realizing the polluter pays principle, said that the absolute

¹²⁴ The Environment (Protection) Act, 1986 (ACT NO. 29 OF 1986)

¹²⁵ The Environment (Protection) Act, 1986. Sec. 2(a) (definition of environment), and Sec. 2(b) (definition of environment pollutant)

¹²⁶ The Environment (Protection) Act, 1986. Sec. 7

¹²⁷ *id.* Sec. 7

¹²⁸ *id.* Sec. 8

¹²⁹ *id.* Sec.15(1)

¹³⁰ *id.* Sec.15(2)

liability extends to compensate the victims of pollution and also to the cost of restoring the environmental degradation.¹³¹

- **The Solid Waste management Rules, 2016**

Waste management is regulated by the rules made by the Central Government under the Environment (Protection) Act, 1986. The Solid Waste management Rules, 2016, provides that the local authorities are responsible for the proper disposal of waste, and the working condition of workers.¹³² The rules expressly provides that “No person should throw, burn, or bury the solid waste generated by him, on streets, open public spaces outside his premises, or in the drain, or water bodies. Further, through the rules, the source segregation of waste has been mandated to channelize the waste to wealth by recovery, reuse and recycle.¹³³ Furthermore, the generator will have to pay ‘User Fee’ to waste collector and for ‘Spot Fine’ for Littering and Non-segregation.¹³⁴

However, there is lack of awareness and coordination, and non-availability of suitable safety gadgets for handling municipal solid waste and sewerage management.

4.2.2 Sanitation Facilities for Worker

India's economy resulted in growth in both types of employment, i.e., permanent and contractual workers. Ensuring the welfare of the labour sector in the nation is the prime responsibility of the Central Government. For this reason, the Central Government has enacted various legislation aimed at securing the welfare of the labour class. There are two broad categories of labour law. First, collective labour law relates to the tripartite relationship between employee, employer, and union. Second, individual labour law concerns employee's rights at work and through the contract for work.

The provision related to dignity, protecting and safeguarding the interest of labour as human beings has been enshrined in **Chapter-III** (Articles 16, 19, 23 & 24) and **Chapter-IV** (Articles 39, 41, 42, 43, 43A & 54) of the Constitution of India keeping in line with Fundamental Rights and Directive Principles of State Policy. The

¹³¹ Vellore Citizen Welfare Forum vs. Union of India & Others, AIR 1996 SC 2715

¹³² The Solid Waste Management Rules, 2016, replaced the Municipal Solid waste (Management and Handling) Rules, 2000.

¹³³ Government of India, Central Monitoring Committee Under Environment Secretary to Monitor Implementation, (PIB, Ministry of Environment, Forest and Climate Change, April, 2016)

¹³⁴ *ibid*

Labour Laws were also influenced by important human rights and the conventions and standards that have emerged from the United Nations. However, the rights conferred to contract workers by way of the Constitution and various other labour laws are generally poorly enforced.

Though there are various labour laws in force, but most of them are applicable only to the organized sector. So far, unorganized sector is concerned, there is no specific law. The primary sectors mainly function through contract labour (comes under unorganized sector). Their main functions are loading and unloading of goods and materials, catering including canteen services, security services, civil and construction works, electrical/ air conditioning/ painting/ whitewashing, house-keeping services, computer maintenance, etc. It has been noticed that contract labour has remained a disadvantaged section of the working class due to lack of organization, ignorance, etc. In terms of sanitation, certain amenities like restrooms, sufficient supply of drinking water, latrines and urinals, washing facilities, and first aid facilities are not provided by the contractor to the contract labour.

In the urban areas, migration of labour from villages/ towns/small cities of the state or other states to a big city is also a big challenge for sanitation. Such migrants have no shelter in the cities, and they are forced to live under the open sky in various open plots/ land in *Jhuggies* to earn their livelihood. As there is no provision for public latrines, these migrants use the roadside, open plots, and land for open defecation, which causes sanitation problems.

Another major issue relating to sanitation problem is the recruitment of *safai karamchari* in the Municipalities and Panchayats. The recruitment policy of *safai karamchari* appears to be defective. Due to various pronouncements of the Supreme Court and High Courts in such recruitments, representation of General, OBC, and SC/ST communities are being made, but it adversely affects the sanitation work (i.e., work relating to the cleaning and management of toilets and human excreta). Moreover, much of this sanitation work performed in degrading and demeaning conditions, such as, bear the multiple stigmas of offensive and unclean work, low wages, and a highly dangerous form of employment resulting in long-term health impairment and an unacceptably high chance of accidental death.

While most manual scavengers are contract workers, the rest of the workers come under casual or ad hoc manual scavenging, i.e., engaged on a spot basis. Usually, the owners do this privately.

- **The Factories Act, 1948**

The Factories Act, 1948¹³⁵ is one of the major central legislation designed to regulate the working conditions of workers in the factories. It lays down all essential provisions relating to cleanliness, ventilation, lighting, sanitary arrangements, health, safety & welfare of the workers in the factories. After the independence, the Government of India made strict rules and regulations to safeguard the interest of the employees in factories. The purpose was to enable the persons employed in factories to perform their work in healthy, pleasant surroundings and provide them with amenities conducive to good health and high morale. Thus, compulsory provisions have been incorporated in the Factories Act, 1948 concerning the health, safety, and welfare of the workers engaged in the manufacturing process.

In the case of **Bhikusa Yamasa Kshatriya (P) Ltd. and Another vs. Union of India**,¹³⁶ the court said that the primary object of the Act is to protect workers employed in factories against industrial and occupational hazards. Thus, the Act also ensures the responsibility of the owners to secure employment, keeping in mind the favourable conditions for the health and safety of the workers. The Act requires that the workers should work in healthy and sanitary conditions and for that purpose it provides that precautions should be taken for the safety of workers and prevention of accidents.¹³⁷

Chapter III, IV and V of the Act provides various health, safety and welfare measures for factory workers. **Section 11** of the Act provides cleanliness of the factory. It is provided that factory must be clean and free from effluvia arising from any drain, privy, and other nuisance. **Section 12** of the Act deals with the disposal of waste materials. It says that effective arrangement shall be made for the disposal of wastes and effluents arising out of manufacturing process carried on in the factories, to render them innocuous, and for their disposal.¹³⁸

¹³⁵ The Factories Act, 1948 (63 OF 1948)

¹³⁶ AIR 1963 SC 1591

¹³⁷ Bhikusa Yamasa Kshatriya (P) Ltd. and Another vs. Union of India, AIR 1963 SC 1591

¹³⁸ The Factories Act, 1948. s.12

Factories Act also provides the requirement of sanitary infrastructure within the premises. **Section 19** says that latrines and urinals accommodation must be provided in a factory. Such latrine accommodation shall be provided in every factory on the following scale:¹³⁹ (a) where females are employed, there shall be at least one latrine for every 25 females, (b) where males are employed, there shall be at least one latrine for every 25 males. Latrines, which is not connected with an efficient water-borne sewage system, shall comply with the requirements of the Public Health authorities.¹⁴⁰ Every latrine shall be undercover and so partitioned off to secure privacy and have a proper door and fastenings.¹⁴¹ Also, separate and adequate washing facilities for male and female workers must be provided at convenient places and must be clean.¹⁴²

The Act further provides that where the number of workers employed 150 or more, there shall be an adequate and suitable shelter, restrooms, and lunchrooms with drinking water facilities, and shall be maintained. Workers can eat meals brought by them in such rooms. The rooms so provided must be sufficiently lighted, ventilated, and be kept cool and in clean conditions.¹⁴³

The Act provides that every welfare officer shall be under an obligation to advise on the provision of welfare facilities, such as housing facilities, foodstuffs, social and recreational facilities, sanitation, advice on individual personnel problems, and education of children.¹⁴⁴ The owner shall be responsible for complying with the requirements relating to the provision and maintenance of latrines, urinal, and washing facilities.¹⁴⁵

- **The Mines Act, 1952**

The Mines Act, 1952 seeks to regulate the working conditions in mines by providing measures require to be taken for the health, safety, and security of workers employed and certain amenities for them. One of the main objective of the Act is to make the provisions for health such as drinking water, sanitation, conservancy, etc. and to provide a healthy environment.

¹³⁹ The Factories Act, 1948. Rule 44

¹⁴⁰ The Factories Act, 1948. Rule 45

¹⁴¹ *id.* Rule 46

¹⁴² The Factories Act, 1948, s.42

¹⁴³ *id.* s.47

¹⁴⁴ *id.* s. 50 (5)(k)

¹⁴⁵ The Factories Act, 1948. Sec. 93 (5)

Chapter V of the Act provides health and safety-related provisions. In the case of **Bandhua Mukti Morcha vs. Union of India and Ors.**¹⁴⁶ The Supreme Court said that Section 20 of The Mines Act requires that there shall be provided separately for males and females a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible. It further provides that the central government and the state government will ensure that conservancy facilities, in shape of latrines and urinals, must be in accordance with the provisions contained in **section 20**¹⁴⁷ of the Mines Act, 1952 and **rules 33 to 36** of the Mines Rules, 1995.¹⁴⁸

In this Act, the central government has given wide power to make rules regarding some basic amenities like health, sanitation, drinking water, etc., under **Section 58**. The Section provides that Central Government, by notification in the Official Gazette, may make rules for prescribing the standard of sanitation to be maintained and the scale of latrine and urinal accommodation to be provided at mines.¹⁴⁹

- **Building and other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996**

The Building and Other Construction Workers' (Regulation of Employment and Conditions of Service) Act, 1996¹⁵⁰, aims to regulate the employment and conditions of service of construction workers and provide for their safety, health, and welfare measures. The Act applies to every establishment that employs/had employed any day of preceding 12 months, 10 or more building workers in building or

¹⁴⁶ *Bandhua Mukti Morcha vs. Union of India and Ors.*, 1984 AIR 802

¹⁴⁷ The Mines Act, 1952,

Section 20. Conservancy:

1. There shall be provided, separately for males and females in every mine, a sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to persons employed in the mine at all times.
2. All latrines and urinals provided under sub-section (1) shall be adequately lighted, ventilated and at all times maintained in a clean and sanitary condition.
3. The Central Government may specify the number of latrines and urinals to be provided in any mine, in proportion to the number of males and females employed in the mine and provide for such other matters in respect of sanitation in mines (including the obligations) in this regard of persons employed in the mine as it may consider necessary in the interests of the health of the persons so employed.

¹⁴⁸ *ibid*

¹⁴⁹ The Mines Act, 1952. Sec. 58

¹⁵⁰ Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (ACT 27 OF 1996)

construction work. It covers all Central and State Government establishments. The special feature of the Act is that it covers all private residential buildings if the cost of construction is more than rupees ten lakhs.

For the purpose of this Act, the building and other construction work is defined as construction, repair, etc. of buildings, roads, etc. The definition does not include any building or other construction work to which Factories Act or Mines Act applies. This Act does also provide some provisions related to toilets for maintaining the hygienic condition of the worker. The Act imposes a duty that the employer shall make an adequate arrangement of a sufficient supply of wholesome drinking water in every place where building or other construction work is in progress. Such water facility shall be situated within six meters of any washing place, urinal, or latrine.¹⁵¹

Section 34 provides that in every place where building or other construction work is carried on, the employer shall provide sufficient latrine and urinal accommodation. It shall be conveniently situated and accessible to the building workers at all times while they are in such a place. The section further provides that it shall not be necessary to provide separate urinals in any place where less than fifty persons are employed or where the latrines are connected to a water-borne sewage system.¹⁵²

In actual practice, the provisions of this Act are beneficial only to the skilled workers and those who work continuously in the industry. Unskilled workers, who do not comply with a construction establishment continuously, may not get the benefits available under the Act.

- **Contract Labour (Regulation & Abolition) Act, 1970**

The Contract Labour (Regulation and Abolition) Act, 1970 was brought to regulate the employment of Contract Labour in certain establishments and provide for its abolition in certain circumstances. The Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Central Rules, 1971 came into force on February 10, 1971. The Constitutional validity of the Act and the Central Rules was challenged before the Supreme Court, but in **Gammon**

¹⁵¹ The Building and Construction Workers (Regulation of Employment and Conditions of Service) Act, 1986. Sec. 32

¹⁵² *id*, Sec. 34

India Limited vs. Union of India,¹⁵³ the Supreme Court upheld the constitutional validity of the Act & Rules and held that there is no unreasonableness in the nature.

The Act provides some sanitary measures to the workers. The Appropriate Government has power to maintain the working condition of the workers by making rules relating to the number and types of canteens, rest-rooms, latrines, and urinals.¹⁵⁴ The Act laid down certain amenities that a contractor is obliged to provide to the contract labour. These amenities includes the establishment of canteens and rest rooms, arrangements for a sufficient supply of wholesome drinking water, latrines and urinals, washing facilities, and first aid facilities.¹⁵⁵ This provision was also held reasonable by the Supreme Court in **Gammon India Limited vs. Union of India**.¹⁵⁶

The Act further provides that in case of failure on the part of the contractor to provide these facilities, the Principal Employer is liable to provide the same.¹⁵⁷ In **Peoples Union for Democratic Rights vs. Union of India**,¹⁵⁸ the Court said that obligation to provide amenities¹⁵⁹ to the workers under the Act is on the principal employer. The government will be responsible for enforcement of those amenities where contractors engaged by it for executing its construction project fail to provide the amenities to its workers. If the Government fails to perform, that will amount to a

¹⁵³ 1974-I-LLJ-480

¹⁵⁴ The Contract Labour (Regulation and Abolition) Act, 1970. Sec. 35

¹⁵⁵ The Contract Labour (Regulation and Abolition) Act, 1970,

Section 18 - Other facilities:

It shall be the duty of every contractor employing contract labour in connection with the work of an establishment to which this Act applies, to provide and maintain-

(a) a sufficient supply of wholesome drinking water for the contract labour at convenient places;

(b) a sufficient number of latrines and urinals of the prescribed types so situated as to be convenient and accessible to the contract labour in the establishment; and

(c) washing facilities.

¹⁵⁶ (1974) 1 SCC 596.

¹⁵⁷ The Contract Labour (Regulation and Abolition) Act, 1970,

Section 20-Liability of principal employer in certain cases. -

(1) If any amenity required to be provided under Section 16, Section 17, Section 18 or Section 19 for the benefit of the contract labour employed in an establishment is not provided by the contractor within the time prescribed therefor, such amenity shall be provided by the principal employer within such time as may be prescribed.

(2) All expenses incurred by the principal employer in providing the amenity may be recovered by the principal employer from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

¹⁵⁸ (1982) 3 SCC 235, 1982 SCC (L & S) 275.

¹⁵⁹ The Contract Labour (Regulation and Abolition) Act, 1970, Ss. 20 & 21

violation of Article 21 and workers can enforce their rights by a writ petition under Article 32.

The Contract labour (Regulation and Abolition) Central Rules, 1971 also provides provision for separate latrine and urinal facilities for male and female workers. It also provides that there shall be at least one latrine for every 25 females, 209 if the number of female workers is 100, and one for every 50 if the number exceeds 100.¹⁶⁰ Every latrine shall be undercover and so partitioned off as to secure privacy and shall have a proper door and fastenings.¹⁶¹ It is noticeable that the latrines and urinals shall be conveniently situated and accessible to workers at all times at the establishment and shall be adequately lighted and maintained in a clean and sanitary condition at all times. Also, latrines and urinals, other than those connected with a flush sewage system, shall comply with the requirement of the public health authorities.¹⁶² Water shall be provided by means of tap or otherwise so as to be conveniently accessible in or near the latrine and urinals.¹⁶³

4.2.3 Sanitation Facilities for the Sanitation Worker

Sanitation work generally involves the collection, transport, treatment, and disposal of human excreta, domestic wastewater and solid waste, and associated hygiene promotions. Thus, sanitation worker includes sweepers, scavengers, those who are involved in the cleaning of toilets, clearing of garbage, transportation of municipal solid waste, worked at disposal and landfills units, sewerage, cleaning of septic tank, and any other person doing similar work.¹⁶⁴

In developed countries, advanced sewerage and solid waste management systems take a number of technical measures to prevent the occupational hazards. In India, due to lack of technical measures, the health aspect of sanitation workers has not given much concern in legal tools related to waste management and sewer systems. There is not a specific law in India that addresses the rights of sanitation workers. Instead, there are several laws that deal with various aspects of their rights.

¹⁶⁰ The Contract Labour (Regulation and Abolition) Central Rules, 1971. Rule 51

¹⁶¹ *ibid.* Rule 53

¹⁶² *ibid.* Rule 55

¹⁶³ *ibid.* Rule 56

¹⁶⁴ Philippe Cullet, Sujit Koonan, *et al.*, *The Right to Sanitation in India*, pp 346-347, (Oxford University Press, 2019)

Sanitation work is one of the most important jobs in society, yet worldwide, sanitation workers remain mostly unseen and unappreciated.

- **The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993**

The Protection of Civil Rights Act, 1955 was the first law to have initiated the conversion of dry latrines to pour-flush latrines to discourage manual handling of human waste. Manual scavenging was banned in 1993 with the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act.¹⁶⁵ This Act prohibited the employment of manual scavengers in cleaning dry latrines and building new dry latrines. It is a criminal, non-bail able Act, which penalizes the employment of manual scavengers or the building of dry (non-flush) toilets by imposing punishment up to one year along with a fine amounting to Rs. 2,000.¹⁶⁶ This Act is often criticized as its implementation was very weak. According to the ‘socio-economic and caste census’ of 2011, estimated around 167,487 households reported a member of the home as a manual scavenger.¹⁶⁷

Due to improper implementation of the Act, Safai Karamchari Andolan (SKA), in 2003, filed a Public Interest Litigation (PIL) in the Supreme Court of India.¹⁶⁸ Through the PIL, the petitioner sought a writ of mandamus to the Union of India and the different states and Union Territories to enforce the implementation of the 1993 Act strictly. In 2007, the central government introduced the Scheme for Rehabilitation of Manual Scavengers (SRMS). The scheme provided training for alternative skills and loans for manual scavengers. Learning from the lack of success of SRMS, a National Advisory Council recommended to the central government to enact a new law.

- **Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013**

During the pendency of the case before the Supreme Court, the central government enacted the Prohibition of Employment of Manual Scavengers and

¹⁶⁵ The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act (ACT NO. 46 OF 1993)

¹⁶⁶ “Get Serious,” *The Hindu*, Chennai, September 13, 2013.

¹⁶⁷ Umesh Isalkar, “Census raises stink over manual scavenging,” *The Times of India*, 30 April 2013.

¹⁶⁸ Safai Karamchari Andolan and Others vs. Union of India and Others, 2014 (4) SCALE 165

Rehabilitation Act 2013, as there were deficiencies in the 1993 Act. The Act is much wider in its coverage and importantly, considerate of the urgency of rehabilitating manual scavengers. It provides a broader definition of manual scavengers to identify them and fixes accountability to punish offenders. The Act again prohibited manual scavenging and aimed to provide rehabilitation for those employed in this work. Based on the new Act, the SRMS was modified to focus on self-employment and one-time cash assistance. Following are the key features-

- It bans manual scavenging and also discharges employees who are engaged in this practice on a contractual or regular basis.
- It widened the definition of manual scavengers by including in it all forms of manual removal of human excreta like an open drain, pit latrine, septic tanks, manholes, and removal of excreta on the railway tracks.
- It lays key focus on rehabilitating the manual scavengers by providing them with ready-built houses, financial assistance & loans for taking up alternate occupation on a sustainable basis, organizing training programs for the scavengers so that they can opt for some other profession at a stipend of Rs. 3000 and offering scholarships to their children under the relevant scheme of the government.
- The Act makes the offense of manual scavenging cognizable and non-bailable.
- It calls for a survey of manual scavenging in urban & rural areas and the conversion of insanitary latrines into sanitary latrines.
- It makes it obligatory for employers to provide protective tools to the workers.

In the final judgment in the **Safai Karamchari case**, delivered in early 2014, the Supreme Court of India ruled that manual scavenging violates international human rights commitments and issued a number of directions not only with respect to rehabilitation of manual scavengers and sanitation worker but also the implementation of the 2013 Act.¹⁶⁹

Sanitation workers are prone to a number of diseases and injuries because they carry out their work without any protective measures.¹⁷⁰ The courts in India have

¹⁶⁹ Safai Karamchari Andolan and Others vs. Union of India and Others, 2014 (4) SCALE 165

¹⁷⁰ Philippe Cullet, 'Policy as Law: Lessons from Sanitation Interventions in Rural India', 54, *Stanford Journal of International Law*, p.353

shown some concern for the health and welfare of workers in hazardous employments because this is a severe human right violation. In the case of **Delhi Jal Board vs. National Campaign for Dignity and Rights of Sewerage and Allied workers & Others**,¹⁷¹ the Supreme Court observed that there is no legal protection for workers in the unorganized sector despite their service being used for the benefit of the public at large. The case also brought light to the fact that the contractors did not provide first aid kits, respiratory mask, or portable ladders to the workers as required by the guidelines issued by the National Human Rights Commission (NHRC).

The unsafe working condition has also led to other issues affecting the social and personal life, health and social status of the sanitation worker. Social justice and dignity for sanitation workers can be attained only if all sections of society and the different government agencies came forward to help realize the rights of sanitation workers.

4.2.4 Sanitation Facilities in School

School is important for the cognitive, creative, and social development of children. Similarly, school sanitation and hygiene education are necessary for a safe, secure, and healthy environment for children. Lack of sanitation facilities is negatively affecting education, and that a lack of concern by education authorities is part of the problem.¹⁷² Girls are the worst sufferers due to the lack of sanitation facilities in schools. The link between the availability of toilets and girl education is not always made directly enough. In fact, in many cases, the absence of a functional toilet contributes to dropping girls out of the school. Due to a shortage of toilet facilities, 23% of adolescent girls drop out of school.¹⁷³ Thus, there are special issues that need to be addressed more rigorously, as lack of sanitation facilities can also affect the realization of the right to education, with lifelong implications for the women concerned.¹⁷⁴ By the 86th amendment to the Constitution of India, free and compulsory Education to the Children of 6-14 years age group was made a

¹⁷¹ 2011 STPL (Web) 593 SC

¹⁷² Human Rights Watch, "The Education Deficit: Failures to Protect and Fulfill the Right to Education through Global Development Agendas" (2016). Available at: https://www.hrw.org/sites/default/files/accessible_document/educationdeficit0616_accessible.pdf (visited on: February 18, 2017)

¹⁷³ "23% girls drop out due to lack of toilets in school of the country," *The Times of India*, January 2017

¹⁷⁴ Philippe Cullet, 'Policy as Law: Lessons from Sanitation Interventions in Rural India', *Stand ford Journal of International Law*, 54 pp.241-258

Fundamental Right under Article 21A.¹⁷⁵ The Right of Children to Free and Compulsory Education Act, 2009 provides some qualitative norms for all the schools like one room for every teacher, separate & functional toilets for boys and girls, clean and adequate drinking water in every school building.¹⁷⁶ It emphasizes infrastructure investment as a key mechanism to bring more children into school.¹⁷⁷

The government of India also enacted the Compulsory Teaching of Sanitation and Cleanliness in Schools Bill, 2016, to provide for free and compulsory teaching of sanitation and cleanliness in all schools as part of Swachh Bharat Abhiyan.¹⁷⁸ Through this enactment, the level of education will increase, and more awareness will be raised about sanitation among children.

4.2.5 Criminal Law and Sanitation

- **Indian Penal Code, 1860**

The different laws during the British raj were enacted to deal with different problems related to the environment, including sanitation. One of these is the Indian Penal Code, which was enacted in 1860 and is also applicable today. There are specific penal provisions in various legislations for the protection of the environment. Chapter XIV of the Indian Penal Code, containing sections 268 to 294-A, deals with offenses relating to public health, safety, etc. The main object of these provisions is to protect public health, safety and convenience by rendering those acts punishable, which makes the environment polluted and dangerous to the life of an individual.¹⁷⁹ Sanitation is not included under these sections explicitly, but it can be considered to come under the nuisance. **Section 268** of the Indian Penal Code, 1860, defines the term public nuisance and **Section 290** of the IPC makes public nuisance punishable. Thus, under these provisions, if any act or omission causing injury to any person by polluting the environment takes place, the same can be subjected to prosecution. Public nuisance covers all types of pollutions, i.e., pollution of land, water, air, noise pollution, etc. Also, **Section 290** covers all miscellaneous nuisances, which are not otherwise punishable under the code.

¹⁷⁵ The Constitution (Eighty-sixth Amendment) Act, 2002

¹⁷⁶ The Right of Children to Free and Compulsory Education Act, 2009, S. 19 and Schedule.

¹⁷⁷ Anjali Adukia, 'Sanitation and Education', pp1-64 (2016)

¹⁷⁸ The Compulsory Teaching of Sanitation and Cleanliness in Schools Bill, 2016 (Bill No. 55 of 2016)

¹⁷⁹ K. D. Gaur, *Indian Penal Code* (LexisNexis, New Delhi, 6th edn., 2018)

Section 269 punishes any person who unlawfully or negligently does any act which is, and which he knows or has a reason to believe to be, likely to spread the infection of any disease dangerous to life. The punishment provided is up to six months imprisonment with or without a fine. This section also could be invoked against a water polluter. **Section 270** deals with malignant act likely to spread infection of disease dangerous to life. It punishes any person who maliciously does any act which is or for which he has a reason to believe to likely to spread the infection of any disease dangerous to life. The punishment for such an act is imprisonment of either description for a maximum term of two years with or without fine. If a person is traced under this section, then he will be guilty of homicide and not merely a nuisance. **Section 271** punishes a person who knowingly disobeys a rule of quarantine in existence made and promulgated by the government. Quarantine relates to a vessel, which is segregated for the prevention of contagious disease.

As regards water pollution, **Section 277** provides that whoever voluntarily corrupt or fouls the water of any public spring or reservoir so as to render it less fit for the purpose for which it is ordinarily used shall be punished with simple or rigorous imprisonment for a term extending to three months or fine of five hundred rupees or with both.

Section 278 of the Act provides that whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of the person in general dwelling or to carry on business in the neighborhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees. The section applies to trades producing noxious and offensive smells or manufacturing units by which the atmosphere is polluted. The water polluter can also be punished under **Section 425** of I.P.C. for mischief. If his act causes wrongful loss or damage to the public or to any person or if his act causes water pollution could be brought under **Section 511** of the Act. **Section 440** of the Act deals with mischief caused by killing maiming animals and cattle.

Though the Code was made way back in 1860 and before independence, it still focuses on various provisions affecting health, and more importantly, it punishes for affecting public health.

- **The Code of Criminal Procedure, 1973**

Wide interpretation of Article 21 of the Constitution of India¹⁸⁰ paved the way for the development of a body of environmental law. The Supreme Court of India started showing concern about environmental problems related to sanitation. One such innovative interpretation of the Apex Court is extending criminal sanctions to the environmental problems.

The problem that presented itself before the Courts from the overpopulated townships of India is the absence of proper drainage systems creating a nuisance of garbage accumulation on the streets etc. Chapter X of the Criminal Procedure Code, 1973 provides a provision for the removal of public nuisance. **Section 133** of Cr.PC. empowers a District Magistrate, Sub-Divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the State Government, to stop the public nuisance on information received through police report or any other information that trade or occupation or keeping of any goods or merchandise is injurious to the health or physical comfort to the community, he may order the person causing the same to desist from carrying on, or to remove or regulate in such manner as may be directed, or to remove such goods or merchandise or to regulate the same in such manner as he deems fit. Under this section, the court issues conditional order, which can be served as if it were a summons.¹⁸¹ If the person does not comply with the order and fails to appear before the Magistrate, he may be prosecuted for six months imprisonment provided under **Section 188** of the Indian Penal Code. This imperative tone of **Section 133** of Cr.PC. read with Section 188 of IPC, which is punitive, makes a prohibitory act a mandatory duty. Section 133 Cr.PC. provides a speedy and summary remedy in case of urgency where damages to the public interest or public health etc., are concerned.

In the case of **Municipal Council, Ratlam vs. Vardhichand**,¹⁸² it was held by the Supreme Court that the Magistrate could use the power given under Section 133 to order a municipality to remove a nuisance caused by the existence of open drainage, pits, and public excretion by human being for want of lavatories.

¹⁸⁰ Maneka Gandhi vs. Union of India, (1978) 1 SCC 248

¹⁸¹ Section 134, Cr. PC

¹⁸² (1980) 4 SCC 162

4.3 ROLE OF JUDICIARY IN REALIZING THE RIGHT TO SANITATION IN INDIA

Indian Courts have made a significant contribution to the development of sanitation law by facilitating the implementation of existing legislation, including sanitation provisions expressly or impliedly. The higher judiciary has been repeatedly petitioned to order the governments and their agencies to perform obligatory duties in relation to sanitation, arising from municipal statutes and pollution control statutes and under Article 32 or Article 226 of the Constitution of India to fulfill the promise of fundamental rights.¹⁸³

Right from the beginning of the twentieth century, courts are holding the view that to construct and maintain sanitation infrastructure is the duty of local bodies, who can be held liable for the negligent performance of their statutory duties. There is also the constitutional obligation of local authorities to take care of public health, sanitation, and the environment. Otherwise, they will be liable for the offense of public nuisance affecting the health and comfort of the inhabitants, for which action can be taken under section 133 of the Criminal Procedure Code 1973, violation of which is punishable under section 188 of the Indian Penal Code 1861. In this reference, in **Dholka Town Municipality vs. Patel Desaibhai Kalidas**,¹⁸⁴ the court held that local bodies are bound to maintain drainage work in a proper state of repairs so that it did not cause a nuisance to the neighboring owners.

The case, **Municipal Council, Ratlam vs. Shri Vardhichand & Others**,¹⁸⁵ is significant for the links between municipal obligations, sanitation, and public nuisance. It is a much-discussed decision of the Supreme Court that ruled on municipal obligations to improve sanitary conditions and redress the problem of overflowing sewage and insufficient drainage in a residential colony in the town of Ratlam (Madhya Pradesh).¹⁸⁶ By this decision, Justice Krishna Iyer gave a new direction to the municipal bodies' responsibility to perform their statutory duty.

¹⁸³ Philippe Cullet, Sujit Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspective*, p204, (Oxford university Press, New Delhi, first edition, 2019)

¹⁸⁴ (1914) I.L.R. 38 Bom. 116.

¹⁸⁵ (1980) 4 SCC 162

¹⁸⁶ Philippe Cullet, Sujit Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspective*, p204, (Oxford university Press, New Delhi, first edition, 2019)

The problem arose when the Madhya Pradesh Municipalities Act, 1961, which requires the state to make reasonable and adequate provisions regarding sewage disposal and drainage, was not providing any sanitary facilities on the roads nor public conveniences for slum dwellers. People living in informal settlements were using the road for that purpose. The open drains attracted mosquitoes, thus posing a further threat to human health. The open sewage situation was even worsened by a distillery discharging bad smelling fluids into the street.

The Magistrate ordered the Municipality to provide for sanitation services, drainage construction, and closure of pits with mud to stop mosquito breeding within two months. A failure to comply with this order would lead to criminal prosecution for failure to abate a public nuisance. The order of the Magistrate was subsequently upheld by the High Court. The Municipality then appealed the High Court's decision to the Supreme Court. Upholding the lower court's decision in favour of the residents, the Supreme Court considered the case in the context of collective rights and the public interest. It also considered substantive equality between wealthier and poorer residents of the municipality and the obligation of municipal authorities, which includes the provision of sanitary facilities as duties of the municipal council and abate public nuisances regardless of their financial situation.

Water and sanitation were recognized as basic human rights in the case of **LK Pandey vs. Union of India**.¹⁸⁷ The Court considered adequate access to water, sanitation, and hygiene essential for a child to realize his full potential of growth.

In the case of **Virendra Gaur and Others vs. State of Haryana**¹⁸⁸, the Supreme Court has observed that without the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation, the life cannot be enjoyed. Environmental, ecological, air, water, pollution, etc., should be regarded as amounting to a violation of Article 21. Therefore, hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment.

In the case of **Rampal & Others vs. State of Rajasthan & Others**,¹⁸⁹ the High Court of Rajasthan, ordered Municipality to build drainage and sewage

¹⁸⁷ 1987 AIR 232

¹⁸⁸ (1994) 2 SCC 577

¹⁸⁹ AIR 1972 SC 793

facilities. In this case, the petitioners had complained about the lack of a drainage system on the road. The petitioner submitted that the water used for domestic purposes, including rainwater, is collected in open squares. The stagnant water acts as a breeding ground for mosquitoes and other insects and can spread infectious diseases. The petitioners therefore called for the municipality to be directed to remove the dirty water and to construct proper drainage facilities and sewers. The Court relied on Section 98 of the Rajasthan Municipalities Act, that lists the cleaning of public places and sewers, the removal of filth, rubbish, night-soil, odour, and other noxious or offensive matter from privies, latrines, or urinals, and the construction of sewers and drainage works as primary duties of the municipality. The Court held that the municipality is responsible for maintaining sanitation and healthy living conditions. It has a statutory obligation to perform these duties and no discretion in the matter. The Court therefore ordered the municipality to fulfill its duties and construct and maintain sewers and drains for the discharge of domestic and rain water to remove the public nuisance caused by the open sewage within a period of three months.

The case of **L. K. Koolwal vs. State of Rajasthan and Others**¹⁹⁰ is another example of judicial activism in sanitation, public health, and environment protection. In this case, Rajasthan High Court ordered the municipality to solve the sanitation problem in Jaipur City. The Court further said that cleaning public places and sewers and removing filth, rubbish, night-soil, odour, and other noxious or offensive matter from privies, latrines, or urinals are primary duties of the municipality that have to be performed regardless of the availability of funds and staff.¹⁹¹

Similarly, in **M. C. Mehta vs. Union of India**,¹⁹² the Ganga pollution case, the municipalities were directed to perform their statutory duty of ensuring that sewage from the towns would not be emptied into the Ganga without treating it. The problem of solid waste management was also understood to be a municipal responsibility, which involves a significant degree of environmental regulation and management. In this case, the writ petition in the public interest was taken up by the Court against the municipal bodies, the Kanpur Nagar Mahapalika alleging violation of fundamental rights resulting from the pollution of the river Ganga. The Supreme

¹⁹⁰ AIR 1988 Raj 2

¹⁹¹ The Rajasthan Municipalities Act. Sec. 98

¹⁹² A.I.R. 1988 S.C. 1115.

Court noted that the Kanpur Nagar Mahapalika was established under the Uttar Pradesh Nagar Mahapalika Adhiniyam, 1959. The duties and powers of the Mahapalika and Mahapalika authorities are set out in Chapter V of the Adhiniyam. These duties and powers indicate that the *Nagar Mahapalika* and the Municipal Boards are primarily responsible for the maintenance of cleanliness in the areas of their jurisdiction. In its final judgment, the Court directed the Kanpur Nagar Mahapalika to take appropriate action under the provisions of the Adhiniyam for the prevention of water pollution in the river. It was noted that a large number of dairies in Kanpur were also polluting the water of the river by disposing of waste in it. The Supreme Court ordered the Kanpur Nagar Mahapalika to direct the dairies to either shift to any other place outside the city or dispose of waste outside the city area. Kanpur Nagar Mahapalika was ordered to increase the size of sewers in the labour colonies and increase the number of public latrines and urinals for poor people. The court further said that whenever applications for licenses to establish new industries are made in the future, such applications shall be refused unless adequate provision has been made to treat trade effluents flowing out of the factories. These orders were made applicable to all Nagar Mahapalikas and Municipalities which have jurisdiction over the area through which the Ganga river flows.¹⁹³

The **Almitra Patel vs. Union of India**¹⁹⁴ case is related to the legal aspects of the waste management in India. It comprised a series of petitions made by the petitioner before the Supreme Court. The active participation of court began with an order on 21st April 1997 when the representatives of each state were asked to file an affidavit on the compliance with existing rules, in the form of a report of the High Power Committee set up by the Planning Commission in 1995 on Urban Solid Waste Management in India and the report of the Central Pollution Control Board on Management of Municipal Wastes (Sewage and Solid Waste). Subsequently, directions on the bio treatment of wastes instead of the usage of insecticides were given, and the states were asked to frame rules for the disposal of Municipal Solid Waste. Subsequently, when large scale non-compliance was seen in 1998, the court appointed a committee under the Ministry of Urban Development. The mandate of the committee was:

¹⁹³ Available at: <http://lawtimesjournal.in/m-c-mehta-v-union-of-india-ganga-pollution-case/> (visited on: March 10, 2019)

¹⁹⁴ Writ Petition No. 888 of 1996 (Supreme Court of India, Order dated 11 January 2000)

- To examine the existing practices and to suggest hygienic processing and waste disposal practices and proven technologies on the basis of economic feasibility and safety, which the corporations/government may directly or indirectly adopt or sponsor.
- To examine and suggest in improving conditions in the formal and informal sector for promoting eco-friendly sorting, collection, transportation, disposal, recycling, and reuse.
- To review Municipal bye-laws and the powers of local bodies and regional planning authorities and suggest necessary modifications to ensure effective budgeting, financing, administration, monitoring, and compliance.
- To examine and formulate standards and regulations for management.

Their feedback was included in the report of the Committee constituted by the Hon'ble Supreme Court of India, which in the words of the petitioner has become a widely accepted bible of waste management practices in the country. The CPCB prepared waste management rules based on this report and discussions with our committee. At the court's direction, these were issued by the government of India's Ministry of Environment as the country's first Municipal Solid Waste (Management and Handling) Rules 2000, issued under the Environment Protection Act, 1986. The Case of Almitra Patel shows that in a country where statutory bodies approach their duties with reluctance and complacency, the role of the citizens and the courts become something of a necessity. Non-disposal and improper disposal of waste is a severe threat to the health and environment of urban cities, and the implementation of procedures is necessary for ensuring that the waste does not become a problem of insurmountable proportions. The onus does ultimately rest with the government to ensure that this is done, and this is what the court had to point out in this case repeatedly. Another important aspect of this case is that it points out that environmental law and its enforcement in India is heavily dependent on the judiciary and on the initiative of citizens who approach the judiciary, given the presence of an apathetic administration.¹⁹⁵

¹⁹⁵ In 2014, the case Almitra Patel vs. Union of India was shifted to the national Green Tribunal, which disposed the case finally in 2016. See Almitra Patel & Others vs. Union of India & Others Original Application No. 199 of 2014 (National Green Tribunal) (Principle Bench) order dated 22 December 2016).

Speaking on the impact of urban slums on garbage removal in the city of Delhi, the court in its order stated that, Establishment or creating of slums, it appears to be good business and is well organized. The number of slums has multiplied in the last few years by geometrical proportion. Large area of public land, in this way, are usurped for private use free of cost. The promise of free land at the taxpayer cost, in place of a *jhuggi*, is a proposal which arrests more land grabbers.¹⁹⁶

In **Ramanath Shekhar vs. Panhopandaya**,¹⁹⁷ the Bombay High Court directed the Railway authorities to provide toilets and urinals at railway stations, (if need be) by employing pay and use system.

In **Suo Motu vs. Ahmedabad Municipal Corporation**,¹⁹⁸ the court observed that the city of Ahmedabad is growing by leaps and bounds and because of this the areas on its periphery are fraught with many problems pertaining to public health, hygiene and sanitation. The civic bodies including the Ahmedabad Municipal Council was also found hopelessly lacking in solving these problems due to various reasons. In monsoon the situation gets worsened as the undisposed garbage gets soaked in the water causing grave problem to public health. Over and above large number of industrial houses discharge their effluent in totally unregulated manner which poses a grave danger not only to the human health but even to the domestic animals. All these chaotic conditions cause various dangerous diseases. Taking the cognizance of the matter *suo moto* the court issued notices to different civic bodies and appointed a committee to look into the matter and report. The court observed that under Article 21 of the Constitution of India the right to life is guaranteed in any civilized society. Art. 21 imposed a positive obligation upon the State to take steps for ensuring to the individual a better enjoyment of his life. Such obligations include maintenance and improvement of public health, elimination of water and air pollution, and providing hygienic conditions within the area under them. Like the State, every civic authority is clothed with power and equipped with means to ensure the citizens better enjoyment of life and dignity and if it fails to provide them, it would violate Article 21. The court while pointing out the failure of the civic authorities for discharging their functions gave several directions to hospitals run by the management administered by the

¹⁹⁶ Almitra Patel vs. Union of India Writ Petition No. 888 of 1996 (Supreme Court of India, Order dated 11 January 2000)

¹⁹⁷ A.I.R. 1987 Bom. 98.

¹⁹⁸ 2006(2) GLR 1129

Government, semi-government or local civil bodies, civic bodies, railway department, police department, A.U.D.A, education department and the Government to protect the fundamental rights of the citizens.

The above judicial decisions shows that The state has shown an increasing commitment to achieve at least one component of the right to sanitation by being increasingly involved in the construction of toilets, especially in rural areas. It is clear from the Constitution of India that it is the duty of the state to provide sanitation facilities, but in the case of *Rajbala vs. State of Haryana*,¹⁹⁹ the Supreme Court said that the public also needs to take this responsibility. In this case, the Haryana government, in 2015, amended the Panchayati Raj Act, 1994 to introduce five new disqualifications for those wishing to stand for any office in the three tiers of panchayat elections. It includes the need to submit a declaration to the effect of having a functional toilet at their place of residence.²⁰⁰ This provision was challenged but the Supreme Court, while upholding the amendments, dismissed the challenge by indicating among other things that it is the duty of a candidate to set an example.²⁰¹ In the view of the court, so long as toilets are constructed, whether they are functional, useful, or even connected to sewage lines, the duty of the State ceases to exist.

Despite these judicial decisions directing local bodies to fulfill their statutory duties with due care and diligence, there are no dearth of incidents where people suffered grave health hazards due to negligence or inaction of local bodies. Providing no drainage and sewage facilities at all in municipal areas is very common. There are a number of colonies submerged in water during the monsoons. Open drains overflowing on the roads are very common. Often the drinking water gets mixed with sewage water due to lack of maintenance and proper care. An inevitable result is the spread of deadly diseases like cholera and jaundice. A number of persons had lost their lives by falling and drowning in the manholes left uncovered by negligent officers of municipal bodies. There is, however, now public consciousness against the breach of duties by municipal bodies.

¹⁹⁹ Writ Petition (Civil) No. 671 of 2015

²⁰⁰ The Haryana Panchayati Raj (Amendment) Act, 2015, s 175.

²⁰¹ *Rajbala vs. State of Haryana*, (2016) 2 SCC 445

4.4 POLICIES AND ADMINISTRATIVE DIRECTIONS RELATED TO SANITATION IN INDIA

There is no direct legislation related to sanitation in India to cover all dimensions of sanitation. States also do not have any direct law on Sanitation to address all the basic Sanitation problems within the States. This gap in the legal framework related to sanitation has been filled by government policies. Thus, various dimensions of sanitation have been addressed in other laws at the national or state level and in the national or state level administrative directives.²⁰²

The Planning Commission was set up in March 1950 with the mandate to affect decisively the future welfare of the people in every sphere of life. It was set up to work in close understanding and consultation with the Central Government and the State Government Ministries. The central government has historically played a very important role in highlighting the policy formulation and implementation of major programs on sanitation until now. But according to the mandate of the Constitution of India, sanitation is a subject matter in the state list. At the federal level, rural sanitation falls under the Ministry of Drinking Water and Sanitation, while urban sanitation is the responsibility of the Ministry of Urban Development. The responsibility of implementing the sanitation-related plans and policies made by the government at the local level was given to the local governments through the 73rd and 74th Constitutional Amendments. Overall, the issue of sanitation has so far been dealt with by establishing coordination between ministries and the Planning Commission (now NITI Aayog) within the larger framework of comprehensive policies and programs initiated at the Centre.²⁰³

The need to improve sanitation was realised much earlier when the planning commission noted the magnitude of the problem of sanitation in its First Five-Year Plan, 1951. The National Water Supply and Rural Sanitation Programme were launched in 1954 as a part of the Plan and focused on improving water supply in rural

²⁰² Philippe Cullet, Sujith Koonan *et al.* (eds.), *The Right to Sanitation in India: Critical Perspectives*, (Oxford University Press, New Delhi, 2019)

²⁰³ Government of India, India: Assessment 2002: Water Supply and Sanitation (Planning Commission of India, 2002), 23.

areas to improve sanitary practices.²⁰⁴ The Fourth Five-Year Plan (1969-74) acknowledged that the problems of sanitation require to be dealt with on a long-term basis.²⁰⁵ The Sixth Five-Year Plan (1980-85) finally recognized that urban development is inescapably connected with the provision of safe water supply and adequate sanitation and stated that the position regarding urban sewerage and sanitation is even less satisfactory than water supply.²⁰⁶ During this period UN declared the International Drinking water and Sanitation Decade (1981-91) to which India also pledged to provide a hundred percent coverage in cities and towns through the use of low-cost sanitation schemes.²⁰⁷ With the advent of the Seventh Five Year Plan (1985-1990), a specific goal was set out to provide 25% of rural homes with individual sanitary latrines.²⁰⁸ Moreover, the Eleventh Five-Year Plan confirmed the prevailing sanitation crisis in the country. This is why Twelfth Five-Year Plan (2012-2017) came up with a broader vision of ‘faster, sustainable and more inclusive growth’.²⁰⁹

- **Integrated Low-Cost Sanitation (ILCS) Scheme, (1980-81)**

The Integrated Low-Cost Sanitation Scheme was launched in 1980-81 for Liberation of Manual Scavengers. It is targeted to be completed by 31st December 2011. It was the foundation of the country’s urban sanitation sector. The scheme could be considered as the first dedicated central program. The ILCS Scheme aims at the conversion of individual dry latrine into a pour-flush latrine in urban areas, thereby liberating manual scavengers from the age-old obnoxious practice of manually carrying night soil. The scheme was implemented in 1534 towns, each with a population of 0.5 million or less.²¹⁰

²⁰⁴ Saptarshi Dutta, ‘India@70: Two Decades and The Five Year Plans Which Focused On Sanitation’, NDTV, August 11, 2017. Available at: <https://www.swachhindia.ndtv.com> (visited on: October 18, 2018)

²⁰⁵ Planning Commission, Fourth Five Year Plan (1969), New Delhi, Para 19.25.

²⁰⁶ Sama Khan, Swachh Bharat Mission (Urban): Need vs Planning, *Centre for Policy Research*, New Delhi (2018)

²⁰⁷ Chitra Padmanabhan, “A Sanitised Society Amidst Rot”, *Economic Times*, 23 April 1995.

²⁰⁸ Planning Commission, Seventh Five Year Plan (1985-1990), vol 2, chapter 12: Housing, Urban Development, water Supply and Sanitation (1985), para 12

²⁰⁹ Government of India, Twelfth Five-Year Plan (2012-2017), para 23.35, (Planning Commission, 2012)

²¹⁰ State of Urban Water and Sanitation in India. TERI University (2017). Available at: <https://www.susana.org/en/knowledge-hub/resources-and-publications/library/details/2879> (visited on: April 23, 2018)

ILCS scheme was initially started through the Ministry of Home Affairs and later through the Ministry of Social Justice & Empowerment. Later, in 1989-90, the scheme was transferred to the Ministry of Urban Development and Poverty Alleviation. From 2003-2004 onwards, the scheme was sent to the Ministry of Urban Employment and Poverty Alleviation, now known as the Ministry of Housing and Urban Affairs (MoHUA). Housing and Urban Development Corporation (HUDCO) was given the responsibility to implement 871 projects under the scheme. In terms of physical coverage, whereas the physical target was 4.89 million toilets (to be constructed anew or converted from the existing ones), the actual number was only 2.2 million, or about 45%, indicating poor performance and even after building these toilets, approximately 12% of the households were not using them.²¹¹

Some of the reasons for the marginal performance of the scheme are the absence of subsidy for building the required infrastructures, lack of sufficient space, poor recovery of loans from individual beneficiaries, confining the scheme to towns with a population of less than 0.5 million, and inadequate (45%) subsidy, which was insufficient for the financially weaker among the beneficiaries.²¹²

- **Central Rural Sanitation Programme, 1986**

In the early eighties, the thrust of the International Water Supply and Sanitation Decade (1981-1990)²¹³ motivated India to launch its first rural sanitation program of independent India, i.e., the Central Rural Sanitation Programme (CRSP) in 1986. It was launched by the Ministry of Rural Development, Government of India. The main objectives of CRSP were to improve the quality of life of the rural people and also to provide privacy and dignity to women.²¹⁴

The program provided financial assistance to below poverty level (BPL) families for constructing individual household toilets (IHHLs). Keeping aside 25

²¹¹Government of India, 'India-2016' (Ministry of Information and Broadcasting, New Delhi, 2016)

²¹² Government of India, Annual Report 2014-2015 (Ministry of Housing & Urban Poverty Alleviation, New Delhi, 2015)

²¹³ The International Drinking Water Supply and Sanitation Decade (IDWSSD), 1981-1990, emerged from the 1977 Mar del Plata, United Nations Water Conference, which were based on previous recommendations arising from the 1976 United Nations Habitat Conference in Canada. The stated objective of the Decade was to "provide all people with water of safe quality in adequate quantity and basic sanitation facilities by 1990. Available at: John Pickford, 'UN Water and Sanitation Decade', Vol. 5, *HABITAT INTL.*, PP 459-467, (1981).

²¹⁴ M. Akram, '*Sociology of Sanitation*', pp. 151-152, (Kalpaz Publication, New Delhi, 2015).

percent of the Central funds for SC/ST families, and making it mandatory that 3 percent of the total toilets constructed for disabled people were some of the truly good features of the program. The Central Rural Sanitation Programme interpreted sanitation as the construction of household toilets and focussed on the promotion of a single technology model through hardware subsidies to generate demand. The concept of sanitation was further expanded in 1993 to include personal hygiene, home sanitation, safe water, garbage and excreta disposal, and wastewater disposal.²¹⁵

It was found that CRSP was strategically weak and did not yield the desired result. Of the sanitary pour-flush toilets constructed in the decade of the 80s and 90s, less than 50 percent were found unused due to many reasons, i.e., lack of awareness, poor construction standards, emphasis on high-cost designs, absence of participation on the part of beneficiaries, etc. The CRSP had also neglected school sanitation, which is considered as one of the vital components of sanitation. Also, CRSP failed to have a linkage with various local institutions like Integrated Child Development Scheme, *Mahila Samakhya*, PRIs, NGOs, research institutions, self-help groups, etc.²¹⁶

- **Total Sanitation Campaign (TSC), 1999**

Realizing weaknesses in CRSP and the experiences of the central and state governments, civil society groups, and other implementing agencies, CRSP was restructured as Total Sanitation Campaign (TSC) in 1999. TSC was the improved version of the CRSP. It followed a paradigm shift in approach from a subsidy-based and “supply-driven program” to a “demand-driven program”, from a top-down to a participatory approach by involving all stakeholders. It aimed to accelerate sanitation coverage in rural India through access to toilets to all by 2012.²¹⁷ TSC changed the concept of sanitation. Earlier, the concept of sanitation was limited to the disposal of human excreta by cess pools, open ditches, pit latrines, bucket system, now it has expanded to liquid and solid waste disposal, food hygiene, personal, domestic as well

²¹⁵ Government of India, ‘General guidelines for implementation of Central Rural Sanitation Programme (CRSP)’, (Ministry of Rural Development, 1993).

²¹⁶ Saptarshi Dutta, ‘India@70: India’s First Nationwide Sanitation Programme in 1986 Focused on Improving Rural Sanitation’, *Swachh India, NDTV*, 2017. Available at: <https://swachhindia.ndtv.com/india70-indias-first-nationwide-sanitation-programme-in-1986-focused-on-improving-rural-sanitation-10640/> (visited on: 23/04/2018)

²¹⁷ Government of India, Evaluation Study on Total Sanitation Campaign (Planning Commission of India, 2013)

as environmental hygiene, etc. The sole idea behind this change of approach was the inculcation of change in behaviour and response.²¹⁸

The program had a strong component of Information, Education, and Communication (IEC) to sensitize the rural population about the need for toilet facilities in rural areas and social marketing for demand generation for sanitation facilities, to set up a delivery system through rural sanitary marts (RSMs) and production centres (PCs), and a thrust on school sanitation. The Planning Commission (2013) is of the view that the increase in coverage of toilet facilities from about 22 percent as per the 2001 Census to 31 percent in 2011 is largely due to the TSC.²¹⁹

The major problem with TSC was that it provided only a limited range of technology options whereas geographic, hydrologic, and socio-economic conditions differ widely in the country. Also, there was a lack of convergence between the water supply program and TSC. As a result, this program was not acceptable to many parts of the country.²²⁰

- **Nirmal Gram Puraskar (NGP), 2005**

As a part of the TCS, the Government of India separately launched an award scheme called the Nirmal Gram Puraskar (NGP)²²¹ in October 2003. It gives innovative financial incentives to encourage positive sanitation and hygiene behaviour changes in rural communities for fully sanitized and open defecation-free gram panchayats, blocks, and districts.²²² The award even penalizes the open defecator and in a way spreads the message of living a dignified life.

The award will be given by the President of India to recognize, encourage and facilitate Panchayati Raj Institutions and those individuals and organizations that

²¹⁸ Government of India, Evaluation Study on Total Sanitation Campaign (Planning Commission of India, 2013)

²¹⁹ *ibid*

²²⁰ R. B. Bhagat, 'Rural and Urban Sanitation in India', *KURUSHETRA*, pp. 11-14. (2014)

²²¹ Government of India, Nirmal Gram Puraskar guidelines, (Ministry of Rural Development, Department of Drinking Water Supply, 2010). Available at: http://www.indiaenvironmentportal.org.in/files/ngp-guidelines_March_2010.pdf. (Visited on: November 15, 2018)

²²² Aarti kelkar, 'Impact assessment of Nirmal Gram Puraskar (NGP) awarded panchayats - A report by TARU,' India Water Portal, (2010). Available at: <https://www.indiawaterportal.org/articles/impact-assessment-nirmal-gram-puraskar-ngp-awarded-panchayats-report-taru> (visited on: November 20, 2018)

work with them to achieve total sanitation.²²³ Village panchayats receive between Rs. 2 lakh and Rs. 4 lakh cash award, depending on the size of the population, while block panchayats are awarded between Rs. 10 lakh and Rs. 20 lakh, again depending on the size of the population.²²⁴ The first round of awards was started in 2005 and was given to 40 Panchayati Raj Institutions (PRIs) of six states out of 478 applications. The first NGP was received by a village in the Vellore district in 2005. In the year 2006, 769 gram panchayats across 14 states gained NGP status. Similarly, during the years 2007 and 2008, 4959 & 12382 PRIs were awarded under the NGP scheme.²²⁵ According to a report, 28002 Gram Panchayats (GPs) were awarded the NGP in 2013.²²⁶

- **Jawaharlal Nehru National Urban Renewal Mission (JNNURM), 2005**

With the increase in urban population, there is a requirement to improve the urban infrastructure and improve the service delivery mechanisms. With these specific objectives in mind, in 2005, the Government of India launched the Jawaharlal Nehru National Urban Renewal Mission (JNNURM).²²⁷ The scheme was officially inaugurated by the then Prime Minister Mr. Manmohan Singh on 3 December 2005, as a program meant to improve the quality of life and infrastructure in the cities. The program focuses on providing basic services such as water and sanitation, roads, and housing development to all urban citizens including the urban poor. It was a massive city-modernization scheme launched under the Ministry of Urban Development. The duration of the Mission was seven years beginning from 2005-06 to 2011-2012.²²⁸

²²³ Government of India, Nirmal Gram Puraskar guidelines, (Ministry of Rural Development, Department of Drinking Water Supply, 2010). Available at: http://www.indiaenvironmentportal.org.in/files/ngp-guidelines_March_2010.pdf. (Visited on: November 15, 2018)

²²⁴ UNICEF India, 770 Panchayats get Nirmal Gram Puraskar, (Press release 2006). Available at: <http://unicef.in/PressReleases/311/March-27-2006-770-Panchayats-get-Nirmal-Gram-Puraskar> (visited on: November 15, 2018)

²²⁵ Government of India, Assessment Study of Impact and Sustainability of Nirmal Gram Puraskar (Ministry of Rural Development, 2011). Available at: <https://jalshakti-ddws.gov.in> (Visited on: November 15, 2018)

²²⁶ Government of India, Nirmal Gram Puraskar, (PIB, Ministry of Drinking Water & Sanitation, 2013) <https://jalshakti-ddws.gov.in> (Visited on: November 15, 2018)

²²⁷ Status of Jawaharlal Nehru National Urban Renewal Mission, PRS Legislative Research, December 7, 2012. Available at: <https://prsindia.org/theprsblog/status-jawaharlal-nehru-national-urban-renewal-mission> (visited on: June 03, 2018)

²²⁸ Government of India, Budget Briefs-JNNURM, Vol. 5, (Ministry of Urban Development 2013-14). Available at: <http://ssrn.com/abstract=2231891> (visited on: June 03, 2018)

- **National Urban Sanitation Policy and Goals, 2008**

The National Urban Sanitation Policy, launched in 2008 by the Ministry of Urban Development of India, marked a watershed in India's urban sanitation sector. The policy called for a paradigm shift in the approach to urban sanitation from infrastructure development to behavioural change. The specific goals of the policy were creating awareness and changing the behaviour in relevant ways to make cities free from Open Defecation and to integrate their sanitation services by reorienting institutions, mainstreaming sanitation, ensuring sanitary and safe disposal of excreta and liquid waste, and operating and maintaining all sanitary installations efficiently.²²⁹

Along with Indonesia's Sanitation Sector Improvement Programme, the NUSP is one of the few initiatives that has established a broad enabling environment for urban sanitation. The policy provides a framework for all Indian states to approach urban sanitation in an integrated manner and mandates each state and city to formulate its own sanitation strategy and their respective City Sanitation Plans in overall conformity to the National Urban Sanitation Policy. This policy does not attempt to provide a sanitation solution for all of India. Instead, it emphasizes a decentralized approach to policy specifics and implementation. In its vision, the policy gives centrality to both public health and environmental outcomes and places a special focus on serving the urban poor and women. The key issues identified by the policy are poor awareness, social and occupational aspects of sanitation, fragmented institutional roles, and responsibilities, lack of an integrated city-wide approach, limited technology choices, reaching the un-served and poor, lack of demand responsiveness. The NUSP emphasizes community-driven solutions, i.e., to 'transform Urban India into a community-driven, totally sanitized, healthy and liveable cities and towns.'²³⁰

According to the Joint Monitoring Program of the WHO (JMP 2014),²³¹ out of 35 states, 29 states were engaged in preparing state sanitation plans, and 158 cities were developing city sanitation plans by 2012. A shift in focus from infrastructure to

²²⁹ Government of India, National Urban Sanitation Policy (Ministry of Urban Development, 2008)

²³⁰ Government of India, National Urban Sanitation Policy, (Ministry of Urban Development, 2008). Available at: <http://www.indiaenvironmentportal.org.in/files/nusb.pdf> (visited on: October 09, 2018)

²³¹ World Health Organization and UNICEF, Progress on sanitation and drinking-water - 2014 update, 2014. Available at: https://www.unicef.org/gambia/Progress_on_drinking_water_and_sanitation_2014_update.pdf (visited on: September 19, 2019)

service delivery was also seen. However, there is a growing recognition that the quality of these plans is highly uneven and that the gap between funding and execution of subnational plans is wide.²³²

In 2012, 12% of the people living in Indian cities defecated in the open, and only 60% had better sanitation facilities.²³³ The 2011 census recorded that 13.75 million, or 17.4%, of India's urban population, lived in slums and 4.67 million, or 34%, of them, had no toilets.²³⁴ The 12th Five-Year Plan (2012-13 to 2016-17) records that 4861 cities and towns in India are without any sewerage network and almost 50% of the households, even in metro cities such as Bangalore and Hyderabad, lack sewerage connections, 37% are connected to open drains and another 18% are not connected at all.²³⁵ The biggest drawback of the policy was the absence of dedicated funding. However, other initiatives have also been launched as a result of the NUSP.²³⁶

- **Nirmal Bharat Abhiyan- Rural Sanitation and Hygiene Strategy (2012-2022)**

The Total Sanitation Campaign closed in 2012 after 13 years of effort to achieve universal rural sanitation coverage. Based on the success of NGP, the TSC was renamed “Nirmal Bharat Abhiyan” (NBA). Planning Commission’s 12th Five Year Plan gave India, the NBA, launched in 2012,²³⁷ with the modified objective of achieving the vision of Nirmal Bharat (Pure India) by 2022. Its goal is not only

²³² World Health Organization and UNICEF, Progress on sanitation and drinking-water - 2014 update, 2014. Available at: https://www.unicef.org/gambia/Progress_on_drinking_water_and_sanitation_2014_update.pdf (visited on: September 19, 2019)

²³³ WHO/UNICEF Joint Monitoring Program for Water Supply and Sanitation (JMP) (2014). Available at: <https://www.unwater.org/publications/update-progress-drinking-water-sanitation/> (visited on: September 19, 2019)

²³⁴ Rukmini Shrinivasan, 17% of Urban India lives in slums: Census, *The Times of India*, New Delhi, 22 March 2013.

²³⁵ Government of India, 12th Five Year Plan (from 2012-13 to 2016-17), (Planning Commission of India, 2012)

²³⁶ As of August 2014, 16 states have prepared state urban sanitation strategies, and 73 cities have submitted their city sanitation plans. See MoUD (2014), Draft State Sanitation Strategies-SSS, Ministry of Urban Development, new Delhi. Available at http://moud.gov.in/sites/upload_files/moud/files/List_Of_SSS_Cities.pdf; also MoUD (2014d), List of CSP Cities, Ministry of Urban Development, new Delhi, available at http://moud.gov.in/sites/upload_files/moud/files/List_Of_CSP_Cities.pdf. (visited on: September 10, 2018)

²³⁷ Government of India, Water Supply Status and Sanitation, (Planning Commission, New Delhi, 2012).

universal toilet coverage by 2022, but also improving health and providing privacy and dignity to women, with the overall goal of improving the quality of life of people living in rural areas. The project was launched in entire rural India covering 607 Districts in 30 States/UT's.²³⁸

The strategy has three following major goals:²³⁹

1. Creation of Totally Sanitized Environments By 2017: The end of open defecation and achievement of a clean environment where human faecal waste is safely contained and disposed of.
2. Adoption of Improved Hygiene Practices By 2020: All people in rural areas, especially children and caregivers, adopt safe hygiene practices at all times.
3. Solid and Liquid Waste Management By 2022: Effective management of solid and liquid waste such that the village environment is kept clean at all times.

The Strategy provides a roadmap for states to develop their own framework for achieving the targets, depending on its needs, existing coverage, and capacity. For the first time, the Ministry has set well-defined and time-bound targets through this strategy.²⁴⁰ The unique feature of this scheme is a phased approach to the achievement of sanitation goals which will be carried out through focused implementation.²⁴¹

In 2015, The Audit Report (from 2009-10 to 2013-14),²⁴² by the Comptroller and Auditor General of India pointed out that 'Against the objective of construction of 426.32 lakh and 469.76 lakh IHHLs for below poverty line (BPL) and above poverty line (APL) families, respectively, project districts could construct only 222.32 lakh (52.15%) for BPL and 207.55 lakh (44.18%) for APL IHHLs during 2009-10 to 2013-

²³⁸ Government of India, Report of the Comptroller and Auditor General of India on Performance Audit of Total Sanitation Campaign/Nirmal Bharat Abhiyan (Ministry of Drinking Water and Sanitation, 2015)

²³⁹ *ibid*

²⁴⁰ Government of India, ANNUAL REPORT 2011-12 (The Ministry of Drinking Water and Sanitation, 2012) p1. Available at: <https://jalshakti-ddws.gov.in/sites/default/files/2011-12%20Final%20Annual%20Report%20%28English%29.pdf> (visited on: September 19, 2019)

²⁴¹ Government of India, The Evaluation Study on Total Sanitation Campaign (TSC), Renamed as Nirmal Bharat Abhiyan (NBA) (Ministry of Drinking Water and Sanitation, 2014) p5.

²⁴² Government of India, Performance Audit of Total Sanitation Campaign/Nirmal Bharat Abhiyan, (Comptroller and Auditor General of India, 2015) available at: https://cag.gov.in/sites/default/files/audit_report_files/Union_Performance_Nirmal_Bharat_Abhiyan_Report_28_2015.pdf (visited on: May 19, 2018)

14.’²⁴³ It also found that there was no convergence during 2009-12 with other schemes and 2012-14 only a small percentage (6% on an average) IHHLs were constructed in convergence with Indira Awas Yojana and Mahatma Gandhi National Rural Employment Guarantee Scheme.’²⁴⁴

The report further revealed that, despite the availability of funds of 13,494.63 crores, only 10,157.93 crores was spent on scheme implementation. The unspent amount on annual basis varied between 40% to 56%.²⁴⁵ In another case, the report said that money remained unused in nine states of Andhra Pradesh, Assam, Gujarat, Jammu & Kashmir, Kerala, Manipur, Madhya Pradesh, Maharashtra, and West Bengal that an amount of 212.14 crores remained unutilized for periods ranging between 4 months to 29 months at state/district/block/gram panchayat level. Stressing the need for IEC and convergence, the report said that due importance was not given to IEC and 25% of the total IEC expenditure during the years 2009-10 to 2011-12 was incurred on activities unrelated to IEC.²⁴⁶

Lastly, it said that, unless the implementation is based on realistic planning and backed by large-scale IEC (information, education, and communication) campaigns to bring about behavioural change in the target population, and unless overall governance at the grass-root level improves, more deployment of resources may not have a significant impact.

- **Swachh Bharat Mission-2014**

In 2014, to accelerate the efforts for achieving universal sanitation coverage and to put a focus on sanitation, Swachh Bharat Mission replaced the Nirmal Bharat Mission. Sanitation policies have been a part of India’s development planning, but the launch of the Swachh Bharat Mission (SBM) in 2014 brought a new urgency to these efforts. The SBM launched on October 2, 2014, claims to be “the largest behaviour change campaign ever attempted in the field of sanitation.”²⁴⁷ This recent flagship

²⁴³*ibid*

²⁴⁴ Government of India, Report of the Comptroller and Auditor General of India on Performance Audit of Total Sanitation Campaign/Nirmal Bharat Abhiyan (Ministry of Drinking Water and Sanitation, 2015)

²⁴⁵*ibid*

²⁴⁶ Defective planning, poor utilisation of funds under Nirmal Bharat Abhiyan: CAG, *The Hindu*, New Delhi, December 08, 2015.

²⁴⁷Philippe Cullet, Sujith Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspectives*, p83, (Oxford University Press, New Delhi, 2019)

program of the government aims to achieve Swachh Bharat by 2nd October 2019, the 150th birth anniversary of Mahatma Gandhi, who regarded cleanliness as next to God. SBM aims to clean up the streets, roads, and infrastructure of India's cities, towns, urban and rural areas and to achieve an "open-defecation free" (ODF) India by 2 October 2019 by constructing 90 million toilets in rural India. The objectives of Swachh Bharat include eliminating open defecation through the construction of household-owned and community-owned toilets and establishing an accountable mechanism of monitoring toilet use.

The mission has two thrusts, Swachh Bharat Abhiyan (Rural), which operates under the Ministry of Drinking Water and Sanitation, and Swachh Bharat Abhiyan (Urban), which operates under the Ministry of Housing and Urban Affairs. The mission will also contribute to India reaching Sustainable Development Goal 6 (SDG 6), established by the UN in 2015.

About 468 districts (out of a total 644) in 22 states (out of 37) and more than 4 lakh 68 thousand villages in the country have become free from open defecation (ODF) till 2019.²⁴⁸ That means between 2014 and 2019, the Government of India built around 110 million toilets all across India, due to which the basic sanitation coverage went up from 38.7% in October 2014 to 93.3% in 2019. Also, since 2014, the Government of India, in partnership with UNICEF, has made remarkable strides in reaching the Open Defecation Free targets. 36 states and union territories, 706 districts, and over 603,175 villages have been declared open defecation free as of Jan 2020.²⁴⁹

The Government of India also launched the **Swachhta Survekshan**, as a part of Swachh Bharat Abhiyan, to assess the level of cleanliness in rural and urban areas and for the active implementation of the Swachhata Mission. The Ministry of Urban Development takes up the Swachh Survekshan in urban areas and the Ministry of Drinking Water and Sanitation in rural areas. The Quality Council of India (QCI) has been commissioned the responsibility of carrying out the assessment.²⁵⁰ MoHUA had

²⁴⁸ Sriroop Chaudhuri & Mimi Roy, 'Rural Sanitation in India: The Poo Party', Stanford Social Innovation Review, 2018. Available at: https://ssir.org/articles/entry/rural_sanitation_in_india_the_poo_party (visited on: June 12, 2018)

²⁴⁹ Narendra Singh Tomar, 'Towards Clean and Healthy Village,' *YOJANA*, November 2018.

²⁵⁰ Government of India, Report of 'Swachh Survekshan, 2016, (Ministry of Housing and Urban Affairs, 2016).

conducted Swachh Survekshan-2016 to rank 73 cities in January 2016, followed by Swachh Survekshan-2017, conducted in January-February 2017, ranked 434 cities. Swachh Survekshan-2018, which became the world's largest cleanliness survey, ranked 4203 cities followed by SS 2019 which not only covered 4237 cities but was also the first of its kind completely digital survey completed in a record time of 28 days. Swachh Survekshan-2020 continued the momentum and surveyed a total of 4242 cities, 62 Cantonment Boards, and 97 Ganga Towns and saw unprecedented participation of 1.87 crore citizens, and was said to be the largest cleanliness survey in the world.²⁵¹

- **Swachh Bharat Mission 2.0 (SBM 2.0)**

In 2020, the Centre approved the second phase of the Swachh Bharat Mission (SBM 2.0). SBM (Urban) 2.0 has been approved until 2025-26, with focus on sustainability of Open Defecation Free (ODF) outcomes, achieving scientific processing of Solid Waste in all cities and managing Wastewater in cities with less than one lakh population in Census 2011.

The key features of SBM (U) 2.0 are:²⁵²

- To make all cities 'Garbage Free' and ensure grey and black water (used water) management in all cities other than those covered under AMRUT,
- making all urban local bodies ODF+ and those with a population of less than 1 lakh as ODF++,
- To make the city water+ thereby ensuring that no untreated used water is discharged in open to pollute water bodies, thus achieving the vision of safe sanitation in urban areas.
- The Mission will also focus on source segregation of solid waste, utilizing the principles of 3Rs (reduce, reuse, recycle),
- Scientific processing of all types of municipal solid waste and remediation of legacy dumpsites for effective solid waste management.

SBM (Gramin) Phase-II will be implemented from 2020-21 to 2025-26 in a mission mode. The main focus of Phase-II will be on Open Defecation Free Plus

²⁵¹ Available at: <https://pib.gov.in/PressReleaseDetailm.aspx?PRID=1647228> (visited on: November 12, 2020)

²⁵²Government of India, 'Cabinet approves the continuation of Swachh Bharat Mission (Urban) (SBM U), till 2025-26 for sustainable outcomes.'(Press Information Bureau 12 OCT 2021)

(ODF Plus), including ODF sustainability and Solid and Liquid Waste Management (SLWM). The program will also work towards ensuring that no one is left behind and everyone uses a toilet. The fund sharing pattern between Centre and States will be 90:10 for North-Eastern States and Himalayan States and UT of J&K, 60:40 for other States; and 100% for other Union Territories. The Significance of SBM (Gramin) Phase-II is that:

- It will continue to generate employment and provide impetus to the rural economy through construction of household toilets and community toilets, as well as infrastructure for SLWM such as compost pits, soak pits, waste stabilisation ponds, material recovery facilities etc.
- It will also help rural India effectively handle the challenge of solid and liquid waste management and will help in substantial improvement in the health of the villagers in the country.

SBM (G) Phase-II is making steady progress with 1249 villages declared ODF (Open Defecation Free) plus till date.²⁵³

4.5 CONCLUSION

Sanitation is a broad field. Still there is no specific legislation that provides for a separate institutional framework for the sanitation sector, but the court made significant contributions to the development of the right to sanitation. It appears that the judiciary has, over time, adopted various approaches in recognizing and protecting the citizen's right to access to drinking water and sanitation.²⁵⁴ The adoption of a comprehensive laws to make sanitation a fundamental right into reality is necessary.

There are various legal instruments that are relevant and related to sanitation. These existing local laws make important contributions to the regulation of sanitation in a general sense. Thus, it is not fair to say that the legal framework does not contribute to the realization of the right to sanitation. In fact, it involves various measures without which the right to sanitation cannot be realized. There are mainly two types of statutory provisions relating to sanitation in India, both of which focus

²⁵³Government of India, Ministry Jal Shakti Shri Rattan Lal Kataria reviews progress made under SBM-G (Ministry of Jal Shakti, New Delhi, June 2021)

²⁵⁴ M. P. Ram Mohan & A. Dulluri, 'Judicial initiatives influencing WASH programmes in India', *Journal of Water, Sanitation and Hygiene for Development* (2017)

on sanitation infrastructure. Some laws focus on access to toilets in specific contexts and some of them recognize access to toilets as a right, for example, in the context of schools. Other laws provide an institutional framework and set out duties and functions related to sanitation, for example, laws governing local bodies in rural and urban areas. However, these laws do not focus on issues of privacy, dignity, gender equality or caste inequality.²⁵⁵

The legal framework follows a fragmented and limited approach to sanitation as reflected in the case of various laws. This lack of any comprehensive legal provision for sanitation in India has been filled by the special policy framework related to sanitation. The policy framework predominantly regulates sanitation system. Policy interventions of the Central Government have done a lot to give greater visibility to sanitation at all levels. Since the 1980s, significant progress has been made by the Indian government in ensuring that sanitation is no longer a taboo. In addition, the launch of SBM was another positive step towards giving visibility to sanitation. At the same time, a lot remains to be achieved beyond the SBM.²⁵⁶

A statutory framework is needed to guide the implementation of sanitation programs and policies. All fundamental norms and principles such as the right to sanitation, decentralization principle, women's right and dignity, as well as linkages between manual scavengers and sanitation should be mentioned explicitly in the statutory framework. This would facilitate legal control of the implementation of sanitation programs and policies. Such a framework law must also provide an opportunity to the people to challenge policy implementation in case of violation of legal norms and principles. In the absence of a legal framework, the policy implementation in the sanitation sector goes unchecked and unchallenged. This is not a welcome situation as far as a crucial sector like rural sanitation is concerned.²⁵⁷

²⁵⁵Philippe Cullet, Sujit Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspective*, p204, (Oxford university Press, New Delhi, first edition, 2019)

²⁵⁶*ibid*

²⁵⁷Sujith Koonan, 'Realization the Right to Sanitation in Rural Areas: Towards a New Framework', *International Environmental Law Research Centre*, p7, (2012)

ROLE OF CIVIL SOCIETIES AND PUBLIC RESPONSIBILITY IN SANITATION ACTIVITIES IN INDIA

In most countries, the traditional agent for development is the state. Therefore, to achieve the social and economic development of a country, various policies and their implementation are considered the primary responsibility of the state.¹ It is expected that people should put their trust and resources in the government, and the government is expected to give people the gift of development instead. Development is a continuous process, which involves the constant reconstruction and adaptation of traditional values, practices, and institutions to incorporate scientific knowledge and technologies to enhance people's lives and well-being.²

In the development process, it has been realized that where the state fails in the development activity, the civil society, engaging with citizens, comes in various forms and interventions. People's participation has also been discussed a lot in the development literature. It is believed that democratic decentralization strongly stimulates people's involvement at the local level because local people believe that decisions about essential development projects are now being made very closely. Therefore, local people are becoming more active in local development matters to influence the development work further. Their participation as individuals and groups, as a part of civil society, has become more vibrant.³

Sanitation is a subject that needs to be focused on by the private sector, civil society organizations (CSOs), communities, and individuals, along with the government, because the management of sound sanitation involves several measures

¹R. K. Mishra, Role of State Owned Enterprises in India's Economic Development, OECD Conference (Workshop on State-Owned Enterprises in the Development Process), Paris (2014)

² Dr. Suresh Kumar Bhaker, Role of NGOs in Rural Development in India, Vol. 1(1), *Journal of Business & Economic Policy*, pp 93-109 (2014)

³ Dr. K P Shripathi, Civil Society's Participation in Development: Need for an Inclusive Approach, *Nitte Management Review*, pp. 36-45

at various levels. The government policies must also allow NGOs or CSOs to engage in the task of development whenever and wherever possible because they are supposed to be ideally suited to link the apparent need of the people and the planning process. For this to happen, people have to be organized and actively participate in the development process. The government, the private sector, and community actors need improved capacities and appropriate technologies. The planning process needs to be transformed to become inclusive and decentralized. Those, who are most affected and marginalized, also need to be mobilized to strengthen their collective participation in improving the sanitation condition of the country.⁴ As we know, sanitation means “cleanness” (*Swachhata*), i.e., cleanliness of the body and the environment. It affects the lives of everyone, one way or the other, whether private or public. That is why the sanitation sector requires the active involvement of everyone because sanitation is, without a doubt, everyone's business.⁵

Although, maintenance of sanitation activities is a significant responsibility of Panchayati Raj Institutions (PRIs) in rural areas and Urban Local Bodies (ULB) in urban areas. Nevertheless, there are also many agencies in the country working for water and sanitation facilities. The Planning Commission's review report on the XI Five-Year Plan on ‘Water Supply and Sanitation (WSS),’ also highlighted the need for constructive civil society initiatives.⁶ It praised civil society's initiation, due to which sanitation has gained importance among social workers and has become a nationally recognized field.⁷ It is noticeable that before the Total Sanitation Campaign (TSC), 1999, there were very few NGOs working in the sanitation sector. However, since TSC operations in rural areas, their number has been increased.

⁴ Dr. Suresh Kumar Bhaker, ‘Role of NGOs in Rural Development in India, Vol. 1(1), *Journal of Business & Economic Policy*’, p93-109 (2014)

⁵ Akshay Rout, ‘Sanitation as Everyone’s Business’, *YOJANA*, November 2018, p52.

⁶ Government of India, 54th NDC Meeting on Rural Drinking Water and Sanitation in the Eleventh Five-Year Plan period (2007-2012) (Planning Commission, 2007)

⁷ Government of India, Report of the Working Group on Rural Domestic Water and Sanitation, Twelfth Five Year Plan – 2012-2017, (Ministry of Drinking Water and Sanitation, 2011). Available at: https://niti.gov.in/planningcommission.gov.in/docs/aboutus/committee/wrkgrp12/wr/wg_indus_rural.pdf. (visited on: July 18, 2020)

5.1 PEOPLE'S PARTICIPATION IN SANITATION:

People's participation is essential for the successful implementation of any social development program. If people are involved in any developing schemes, there is minimal scope for failure. It is believed that with the right political will and funds, sanitation facilities can be made accessible to one and all. The history of India has witnessed many social reformers who have started the sanitation movement. Among these, Mahatma Gandhi, Dr. B.R. Ambedkar, Sant Gadge Baba, and Suryakant Parikh are the main ones. These people have waged a public awakening campaign for sanitation and health improvement, drainage of toilets, cleaning toilets and bathrooms, etc. Dr. B.R. Ambedkar inspired people to wear clean clothes, do home hygiene, and clean their surroundings. Sant Gadge Baba spread awareness for sanitation facilities, toilet usage, and public hygiene in rural areas. Another social reformer, Shri Suryakant Parikh, worked for the cleanliness of public roads, pay and use facilities, etc. Dr. Bindeshwar Pathak opposed the work of lifting the dirt of the lower caste people and has also inspired the renovation of the toilet.

Mahatma Gandhi made sanitation and prevention of untouchability a part of the freedom struggle. During his stay in South Africa in the early 1890s, he was deeply concerned with the modern idea of sanitation. For Gandhiji, maintaining sanitary conditions was important, not only to lead a healthy lifestyle and protect oneself from epidemics but also important to eliminate discrimination against Indians who used to clean drains and sewers. Hence, Gandhi was involved in increasing the sanitation condition of Indian areas in South Africa.⁸ Mahatma Gandhi had cleanliness and sanitation closest to his heart. Mahatma Gandhi once said,

“Everyone must be his own scavenger. If you become your own sweeper, not only will you ensure perfect sanitation for yourself, but you will make your surroundings clean.”⁹

Mahatma Gandhi wanted to see our country, a clean country. However, he was disturbed by the way the people of India were living and maintaining their

⁸ T. Yamauchi *et al.* (eds.), *The Sanitation Triangle: Socio-Culture, Health and Materials*, (Global Environmental Studies, Springer Nature, Singapore, 2022) (eBook).

⁹ Dr. Shubhangi Rathi, 'Importance of Gandhian thoughts about Cleanliness'. Available at: <https://www.mkgandhi.org/articles/gandhian-thoughts-about-cleanliness.html> (visited on: October 30, 2019)

inhabitation. Gandhiji felt that Indians developed a very unscientific attitude towards cleanliness and hygiene over time. For him, cleaning was not limited to only the body and environment, but cleansing the soul was his ultimate goal. As a searcher of Truth, Gandhi maintained a meticulous lifestyle and accorded the highest importance to cleanliness. As a father of the nation, he realized the indispensable place of sanitation in nation-building and stated, '*cleanliness is next to godliness.*'

Mahatma Gandhi had realized early in his life that the prevalence of poor sanitation situation in India and particularly the lack of adequate toilets in the then largely rural India needed as much attention as Swaraj. He said that unless we "*rid ourselves of our dirty habits and have improved latrines, Swaraj can have no value for us.*"¹⁰ He further stated that "*Swaraj ought to begin with our streets.*"¹¹ Thus, along with the struggle for India's independence, he led a continuous struggle for sanitation, cleanliness, and efficient management of all categories of wastes throughout his public life in South Africa and later in India.¹² He wanted to make India a clan nation where every citizen is clean and pure physically, socially, and from the heart.

In 1925, **Dr. Babasaheb Bhimrao Ambedkar** mentioned the description of Gandhiji's works for the untouchables in his book. In which, Dr. Ambedkar has expressed his views towards the emergence of the untouchables, their problems, their socio-cultural backwardness, and the oppression of the untouchables by the touchable. He does not have concrete work related to sanitation, however, his thoughts, writings, and speeches have been considered in this context. His fight was mainly for clean nutrition, the right to clean drinking water, caste inequality, low education level, weak health, dirty residence, toilet cleaning work, etc.

Gandhi and Ambedkar have shared a common concept about importance of sanitation and the sanitation workers in India. Gandhi spoke with great interest in incorporating the element of morality into practice by advocating for people to be

¹⁰ Y. P. Anand, 'Cleanliness-Sanitation : Gandhian Movement and Swachh Bharat Abhiyan', Bombay Sarvodaya Mandal & Gandhi Research Foundation, Available at: <https://www.mkgandhi.org/articles/cleanliness-sanitation-gandhian-movement-swachh-bharat-abhiyan.html> (visited on: May 25, 2018)

¹¹ Swachh Bharat: How Mahatma Gandhi became torchbearer for cleanliness, *The Indian Express*, 2017, New Delhi, available at: <https://indianexpress.com/article/research/swachh-bharat-how-mahatma-became-torch-bearer-for-cleanliness/> (visited on: May 25, 2018)

¹²*ibid*

their own “scavengers.” In contrast, Ambedkar devoted himself to protecting the social and economic rights of sanitation workers.¹³

Sant Gadge Maharaj was one of the famous social reformers who made sanitation the goal of his life. His real name was Debuji Zhingraji Janorkar. Gadge Maharaj was a wandering social teacher. He lived in voluntary poverty and wandered in various villages to promote social justice and initiated reforms, particularly those related to sanitation. He used to travel on foot, with slippers on his feet and a bowl of mud on his head, and that was his identity. When he entered a village, Gadge Maharaj immediately started cleaning the gutters and paths and after finishing work, he congratulated the people for cleaning the village.¹⁴ Maharaj died on 20 December 1956. The Maharashtra government launched the Sant Gadge Baba Gram Swachhata Abhiyan in his honour in 2000-01. The award is given to villagers who keep their village clean. The Government of India also has started several awards in his honour.¹⁵

The founder of Sulabh International Organisation, **Dr. Bindeshwar Pathak**, is widely recognized in India and worldwide for dedicating his life to building a nationwide sanitation movement. His contribution made a significant difference in the lives of millions of people who cannot afford toilets, people who work as manual scavengers, and those who face severe discrimination due to their low caste in society. In 1968, troubled by the condition of the untouchables and inspired by the philosophy and teachings of Mahatma Gandhi, Dr. Pathak created a toilet technology that could replace a dry toilet. He started a ‘Sulabh Movement’ in 1970 and invented and developed many designs of two-pit pour-flush toilets, popularly known as *Sulabh Shauchalay* (Toilets).

Sulabh covers approximately 20 million persons per day by building 1.5 million household toilets, more than 9,000 public toilets, and 20,000 school toilets.¹⁶ Sulabh, along with the government, has opened vocational training centres in Patna, New Delhi, Alwar, Tonka, Arrah, etc., for rehabilitation scavengers. It also started a

¹³ T. Yamauchi et al. (eds.), *The Sanitation Triangle: Socio-Culture, Health and Materials*, (Global Environmental Studies, Springer Nature, Singapore, 2022) (eBook).

¹⁴ Available at: <https://hindi.indiawaterportal.org/content/bhaarata-maen-savacachataa-anadaolana-kai-aitaihaasaika-parsathabhauumai/content-type-page/1319334850> (visited on: October 13, 2019)

¹⁵ *ibid*

¹⁶ Bindeshwar Pathak and Indira Chakravarty, ‘Sanitation and Health: A movement visualizing Gandhi’s Dream,’ vol.149 (1), *Indian Journal of Medical Research*, pp.73–75 (2019).

center, 'Nai Disha' (New Direction), in Alwar, Rajasthan, to give the liberated scavengers education and vocational training in different trades. In 1974, Dr. Pathak introduced the system of maintenance of public toilets on a pay-and-use basis. It was a new concept, but very soon, it became popular in India.¹⁷

Inspired by 'Sulabh International,' in 1988, the NASA Foundation built collective toilets on a 'pay and use' facility. In 1988, **Mr. Suryakant Parikh**, with the help of his friends, established the 'National Sanitation and Environment Improvement Foundation' (called NASA Foundation). The NASA foundation aims to improve public hygiene by establishing clean sanitation facilities for public use. The building, operating, and maintaining community sanitation complexes for the public in growing and densely populated urban areas, managing water resources, recycle waste for productive use are some of the highlights of NASA's programs. Suryakant Parikh launched a cleanliness and hygiene campaign for sanitation under the NASA program. Under which public toilets and bathrooms were constructed in various pilgrimage places, hospitals, government schools, ashrams, etc. NASA has taken up the responsibility of constructing and maintaining these public toilets.¹⁸

Realization of the right to sanitation in India is dependent, among other factors, on the recognition of the social aspect of sanitation, including the practice of manual scavenging and the working conditions of scavengers (sewage workers). Manual scavenging is the dehumanizing practice known in human history. It collects, transport, and disposes of human excreta from dry latrines, sewers, and septic tanks.¹⁹ Manual scavenging is an occupation practiced by only a few castes, which, over time, became the traditional occupation of that particular caste. The people, who perform such work, often belong to the lower caste and are called manual scavengers (locally called *Bhangi* and *Valmiki*). Thus, the caste-based division of labour has created and preserved a social practice in which the cleaning of toilets or human faeces are the occupational duty of a specific caste particularly identified as scavengers. The link between caste and sanitation is very deep and exploitative. It works mainly in two

¹⁷ Sulabh International Social Service Organization. Available at: <https://www.sulabhinternational.org/founders-profile-dr-bindeshwar-pathak/> (Visited at: October 11, 2019)

¹⁸ National Sanitation and Environment Improvement Foundation (NASA): A non-profit Voluntary Organisation. Available at: https://nasafoundation.org/public_sanitation.html (Visited at: October 11, 2019)

¹⁹ B. Siddaramu, Liberation and Rehabilitation of Manual Scavengers, vol.1, *IJRHL*, (2013) p.29.

ways, firstly, the caste system treats the people of lower castes as ‘polluters’, and hence ‘untouchables’. Second, the caste system allocates all menial jobs to the lower castes, i.e. ‘Dalits’.²⁰ Thus, the idea of sanitation is not confined to physical conditions only but is also a social construct. Scavengers are a group who have been socially excluded in Indian society.²¹ **Bezwada Wilson**, born in a family of manual scavengers, devoted his life to the liberation of manual scavengers from cruel working conditions and even attempted to erase the abusive behavior of manual scavenging. He formed the **Safai Karamchari Andolan (SKA)** in the 1990s, intending to eliminate manual scavenging from India completely. By 2019, SKA freed more than one lakh scavengers from manual scavenging and helped them move into other occupations by assisting them in forming sewerage workers’ associations and self-help groups. He was honored with the Ramon Magsaysay Award in 2016 for ‘Reclaiming the Human Dignity of Dalits.’ He said that caste discrimination is the biggest reason due to which this practice is widely prevalent throughout India.²²

In 1993, the Government of India enacted the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, which defines the manual scavengers, a person engaged or employed for manually carrying human excreta, and the expression manual scavenging shall be construed accordingly.²³ Apart from the legislative framework, the Supreme Court of India, while dealing with a writ petition,²⁴ filed by Safai Karamchari Andolan, confessed this fact that Manual Scavengers are also entitled to fundamental human rights for a dignified life, and also directed to state governments to use technological assistance in scavenging process and abolish such type of social evil in their respective state.²⁵ In 2013, the parliament came up with legislation titled the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act, 2013, which provides for the prohibition of employment of scavengers, rehabilitation of manual scavengers and their families.

²⁰P. Cullet, S. Koonan, *et al.* (eds.), *The Right to Sanitation in India: Critical Perspective*, p158, (Oxford university Press, New Delhi, first edition, 2019)

²¹Paramjit S. Judge, *Mapping Social Exclusion in India: Caste Religion and Borderlands*, p.146 (Cambridge University Press, New Delhi, 2014).

²² Bhasha Singh, Bezwada Wilson: The Government is Not Bothered About Dalits Dying in Sewers, Septic Tanks, *The WIRE*, July 2016.

²³ The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 (Act. No. 46 of 1993), Sec. 2(j).

²⁴ Safai Karamchari Andolan and Ors. vs. Union of India and Ors., 2003 Writ Petition (Civil) No. 583.

²⁵ <https://www.thehindu.com/news/national/supreme-court-orders-states-to-abolish-manual-scavenging/article5840086.ece> (Visited on April 02, 2020).

According to the 2011 census data, manual scavenging is still the primary occupation of over 1,80,000 Dalit families. The Census also reports that around 26 lakh (26,06,278) insanitary latrines existed in the country. Officially, 54,130 manual scavengers have been identified across the country, with the maximum number in Uttar Pradesh, Uttarakhand, Rajasthan, and Maharashtra. Therefore, we can say that it is very much prevalent in every state across the country. Mr. Bezwada Wilson observed that the actual number of manual scavengers is much higher than the government's figures. According to him, more than 2.6 lakh women are involved in cleaning the dry latrine, and around 7.7 lakh men are engaged in cleaning sewers and septic tanks. After SKA, manual scavengers had come down from 15 lakh in 1996 to 53,236 in 2018. Along with his work, he also suggested the following measures to achieve a manual scavenging free country:

1. Identify the women and men who clean the dry latrines and sewers/ septic tanks, respectively.
2. Conversion of dry toilets or insanitary toilets into flush toilets/ sanitary toilets on a priority basis.
3. Build a strong sewer drainage network and deploy machines to clean them.
4. Rehabilitation plans should be prepared for manual scavengers to exit from the practice in a more sustainable way.

Despite having so many laws and technological equipment, manual scavenging is still in practice. Sewage workers continue to die despite manual scavenging being illegal, and the govt. is accused of not doing much despite massive funding available under Swachh Bharat. The current government data shows that approximately more than 54000 people are identified in 170 districts in 18 states as of July 2019, and 814 casualties have also taken place while performing such inhuman occupation.²⁶ It is now in need of the hour that there should be a technological tool to perform such filthy activity. Indian municipal bodies are gradually adopting machinated sewer cleaning to end manual scavenging but at a very slow pace. Hyderabad, for example, introduced 70 mini sewer-jetting machines in 2017. The Supreme Court of India has issued guidelines to all Urban Local Bodies to have

²⁶Sumant Sen, Data: Manual scavenging exists in India despite being outlawed in 2013, *The Hindu*, September 25, 2019.

“technology adopted methods” for cleaning manholes and septic tanks. An Indian start-up, called **Genrobotics**, has made the world's first manhole-cleaning robot called ‘**Bandicoot**.’ The robot comes with a feature to change the end of the robotic arm to clean different sized drainage systems like the inside of a manhole or the insides of a sewer line. The robot has cameras that work even in low light conditions to show where the blockage is, what poisonous gases are present, and the pH value of sewer water.²⁷

Sanitation has now become a subject for which millions of people have come together to work on it. In 2018, the Nilgiris were declared free from open defecation due to one man and his organization's efforts. Earlier, most people did not have toilets in their homes that forced them to defecate in the open, either in the dead of night or in the crack of dawn. Lack of toilets was a common issue in most Nilgiri villages, and people had no choice but to defecate in the open. **N.K. Perumal**, the founder of Rural Development Organisation (RDO) Trust, took up sanitation activities in 2010 when Nilgiris was the second worst in terms of open defecation. Together with the Finnish Society, the RDO helped to build 1 million toilets in homes and schools in 10 states like Rajasthan, UP, Gujarat, MP, Odisha, and Maharashtra.

Many Indian villages have organized a **Gaurav Yatra**²⁸, a village pride march, to celebrate that they have been declared Open Defecation Free (ODF). The village pride march is part of the government-led Clean India Mission, the world's largest toilet-building and behavioural change initiative.

Ultimately, it is the common people who have led the sanitation battle. Some other examples are: A doctor couple from Chalapalli district (Andhra Pradesh) has been undertaking cleanliness drives in their surroundings every day of the year. They used “Namaskar,” a gesture used by Indians to greet people as a weapon, and it worked surprisingly for people defecating in public places. Consequently, the village received the Open Defecation Free (ODF) tag with AP in June 2018.²⁹ Wing Commander Paramvir Singh, along with three swimmers and six raft-men, undertook

²⁷ Kathakali Chanda, ‘Bandicoot: Genrobotics' robot that scoops out filth from sewers’, *Forbes India*, 2018.

²⁸ Village Pride March (Gram Gaurav Yatra) and Sanitation Festival are celebrated to recognize the efforts and contributions the people made for each other. This is Gandhi’s path of co-operation and helping each other.

²⁹ Gali Nagaraja, Doctor couple’s ‘namaste’ crusade wins AP village open defecation-free tag, *The Hindustan Times*, September 2018.

a ‘Ganga Avahan,’ swimming a length of 2,800 km along River Ganga, from Devprayag (Uttarakhand) to Ganga Sagar (West Bengal) in 2015, to spread awareness about the Swachh Bharat Mission.³⁰ Women are also campaigning for the Swachh Bharat Mission like no other group. Three enterprising women from Maharashtra, Suvarna Lokhande from Sinnar (Nasik District), Sangeeta Awhale from Saikheda (Washim district), and Chaitali Rathod from Mozar (district Yavatmal), had taken the initiative of building toilets for their families, for their personal and their families’ self-esteem. While Suvarna took a loan from “*Bachat Gat*” (Self-help Group) for building the toilet, Sangeeta sold her *mangalsutra* to fund the toilet, and Chaitali asked for a toilet at her in-laws’ place instead of any other items from her parents during her marriage.³¹ KOSHISH, a Drug-based group of individuals of all ages, cleans the parks near their community every morning for senior citizen’s use. The Sant Nirankari Mandal regularly conducts several cleanliness drives around roads, streets, parks, heritage sites, water bodies, and railway stations.

The above narratives try to explain that the Swachh Bharat Mission, the biggest behavioural change program globally, is the participation of all stakeholders.

5.2 NON-GOVERNMENTAL ORGANIZATIONS IN SANITATION:

Working for public purposes is usually a distinguishing feature of non-governmental organizations (NGOs). They are called by various names worldwide, such as not-for-profit institutions, third sector organizations, voluntary organizations, community-based organizations, charitable organizations, etc. It is everyone’s responsibility to keep the city clean, and NGOs play a vital role in making people aware of this civic duty. NGOs are essential for adopting innovative approaches and providing services to support sustainability and effective use under the sanitation sector. They can meet people’s needs as they work in direct contact with the local people. They can, therefore, identify the condition of the people and communicate with policymakers. Although some policies and documents related to sanitation have mentioned the need for civil Society Organizations (CSOs) and NGOs to participate,

³⁰ PIB, Namami Gange launches Ganga Aamantran – a unique social awareness initiative to connect with the people, Ministry of Jal Shakti, 2019. Available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1587435> (visited on: March 01, 2020)

³¹ Vivasan Shastri and Yesha Bhatt, ‘*Empowering Indian Women*’, (Google Book) 2018.

there is often a lack of what these stakeholders can contribute to this area. Based on its strengths and capabilities, some of the broad areas related to sanitation in which civil society can contribute are listed below:³²

- **Engagement in the planning, implementation, and monitoring process:** The participation of CSOs in the planning process has increased over the past plan and sanitation policies.
- **Community engagement for social mobilization, raising awareness, generating demand, and facilitating change:** CSOs can engage with communities to inform them about government policies and programs, generate demand, and promote behavior change. The role of CSOs is also crucial in bringing about behavior change and ensuring equal access to drinking water and sanitation by providing proper dissemination of information to all sections of rural society. Also, at the school /Anganwadi level, CSOs can play a critical role in making teachers and the PTA more responsive to children's Water, Sanitation, and Hygiene (WASH) requirements in schools. As far as improved sanitation usage is concerned, the CSOs/NGOs can play a significant role in bringing about behavioral changes among children.
- **Capacity-building support to communities and implementing institutions:** CSOs can provide facility and capacity-building support to Gram Panchayats (GPs), Gram Sabha, and Village Water and Sanitation Committee (VWSCs) to ensure sanitation coverage and utilization, and its sustainability. They can also play a vital role in capacitating local institutions like schools, Anganwadi, and Accredited Social Health Activists (ASHA) to bring about behavioural changes. CSOs can play a significant role in making sanitation a priority issue at the block level by orienting elected representatives and capacitating block level functionaries, including block coordinators.

At the district level, CSOs can play an essential role in assisting District Water and Sanitation Mission (DWSM) in developing district-level strategies to achieve total drinking water coverage, sanitation coverage, and utilization. They can establish

³² Government of India, Report of the Working Group on Rural Domestic Water and Sanitation, Twelfth Five Year Plan-2012-2017, Ministry of Drinking Water and Sanitation (2011), p.115. Available at: https://niti.gov.in/planningcommission.gov.in/docs/aboutus/committee/wrkgrp12/wr/wg_indus_rural.pdf. (visited on: July 18, 2020)

monitoring systems, formulate communication strategies for behavior change, and develop a coordination mechanism between departments such as health, education, women and child development, tribal development, and more. At the state level, CSOs can play an essential role in the State Water and Sanitation Mission (SWSM) to enhance their effectiveness.

- **Innovation and model creation:** NGOs and CSOs create myriad models that diversify the country by developing low-cost, sustainable, and acceptable technologies. While these models are usually on a small scale, their scaling up can be possible through partnerships with capacity-building institutions and the government. CSOs can also develop models that provide water, sanitation, and hygiene facilities to communities, usually abandoned.
- **Menstrual hygiene management:** WASH should be seen as a complete package and for all, irrespective of caste, class, ethnicity, ability, economic status, and gender. Hygiene forms a key component of WASH programs. Often what is left out are issues relating to women's hygiene, namely, menstrual hygiene. There is a great taboo associated with this issue and an absence of knowledge about safe practices women suffer. There are now several examples where CSOs have worked with the community, informed them about menstrual hygiene practices, and developed economic models to meet sanitary napkins' demand.
- **Participation in assessments and reviews for a reality check:** CSOs can be involved in different surveys to assess programs such as TSC and the Nirmal Gram Puraskar. They can also help in two-way communication to bridge the gap between ground realities on the one hand and policies and programs at the state and national levels.
- **Enhancing transparency and governance:** Through social audits and joint monitoring processes, CSOs can enable a dialogue between service providers and the user community to optimize the program delivery. Furthermore, to ensure the sustainability of sanitation coverage and usage CSOs can play a critical role by assisting GP/VWSC in setting up:
 - appropriate community monitoring mechanisms to ensure proper implementation and usage of sanitation.

- a Report Card System to assess the performance of duty bearers.
- **Strengthening the supply chain for better sanitation coverage:** One of the reasons for the non-usage of toilets constructed has been the inadequate quality and faulty toilets' designs. Therefore, if a robust supply chain (materials, skilled masons, technology, etc.) is established, it can ensure timely and quality toilets' construction, it can ultimately help in better utilization. For example, structured training programs for masons have been built on time and have also helped maintain toilets' quality, technical specifications, and, ultimately, their use. CSOs can undertake this training.
- **Research and documentation to influence policy and program:** Documentation of WASH issues, challenges, approaches, and practices by CSOs can help optimize programs and training. CSOs can also engage in need-based research and technology innovation.

By integrating global expertise with country investment, the **World Bank Group** is creating more transformative solutions to develop the countries' sanitation sector in the 21st century. The World Bank's Water and Sanitation Program works directly with local and national governments in 25 countries to effect regulatory and structural changes to improve the broader water and sanitation sector. The organization places a strong emphasis on capacity building and dissemination of best practices. In addition, the World Bank helps countries to address sanitation-related challenges, such as eliminating open defecation, improving service delivery and access to sanitation facilities, such as waste management, and sustainable sludge management with some core development partners, including The Bill & Melinda Gates Foundation, WaterAid, and Plan International, etc. The World Bank has committed US\$10 billion to sanitation and water services, which would reach 132 million people by 2019.³³

Water Aid, an international NGO, is one of the biggest and oldest in the sector. It was launched in 1981 in response to the United Nations Declaration of Water and Sanitation Decade, 1980–90. Its main objective is to have better access to clean and adequate water, reliable toilets, and good sanitation for poor communities

³³The world Bank, Sanitation. Available at: <https://www.worldbank.org/en/topic/sanitation#2> (visited on: October 21, 2019)

within a generation. WaterAid works in 15 countries in Asia and Africa through local organizations and communities, helping them establish sustainable projects and technology using low-cost. Since 1981, they have empowered 26.4 million people with clean water, 26.3 million people with reliable toilets.³⁴ In India, WaterAid operates in more than ten states with two regional offices in Bhopal and Bhubaneswar, in collaboration with local NGOs and government departments and ministries seeking assistance in the particular areas of rural and urban water supply and sanitation.³⁵

Bill & Melinda Gates Foundation's Water, Sanitation, and Hygiene (WASH) program was launched in 2005. The Foundation made several efforts in the WASH field related to research, experimentation, reflection, advocacy, and field implementation. In 2011, the Foundation launched its new “Water, Sanitation, Hygiene Strategy Overview.” The strategy announced that the Foundation's funding primarily focused on sanitation, particularly in Sub-Saharan Africa and South Asia, because access to improved sanitation was among the lowest in those regions. From 2008 to 2015, all grants provided by the Foundation for water, sanitation, and hygiene projects were valued at approximately US\$ 650 million. In India, the Foundation works with the central government and selected states and cities to create sanitation schemes, promote partnerships with the private sector to deliver sanitation services, showcasing innovative technology and design solutions, and create demand for sanitation services within the communities. In 2011, the Gates Foundation launched a program to “Reinvent the Toilet Challenge” to promote toilet design innovations to ensure universal access to clean toilets in India. They are also working with rural and urban ministries to help accelerate the progress of the ongoing Swachh Bharat Mission by the government. Focusing on Bihar and Uttar Pradesh, the Foundation has funded research and demonstration projects related to sanitation in several states of India,³⁶

As data collected by the **Joint Monitoring Program (JMP) of UNICEF and WHO's** Water Supply and Sanitation, It has been observed that better sanitation is a

³⁴ WaterAid. Available at: <https://www.wateraid.org/where-we-work/india> (visited on: November 08, 2019)

³⁵ WaterAid India. Available at: <https://www.wateraidindia.in/> (visited on: November 08, 2019)

³⁶ Bill & Melinda Gates Foundation. Available at: <https://www.gatesfoundation.org/Where-We-Work/India-Office/About-the-India-Office> (visited on: June 08, 2020)

neglected priority. The program's primary function is to monitor the WASH sector. The WHO/UNICEF JMP has developed a 5-year strategy (2016–2020), which aims to increase WASH's global monitoring in the context of a new agenda for sustainable development 2030.³⁷

Sulabh International Social Service Organization was established in 1970 by Dr. Bindeshwar Pathak to improve sanitation facilities, especially among the poor. The focus of the organization is to eliminate the inhuman practice of manual scavenging and improve the environment. They designed the versatile two-pit put-flush toilet to dispose of human excreta without being touched by hand and manually removed. This cost-effective system is popularly known as the ‘Sulabh Shauchalay.’³⁸ Sulabh has worked in more than 20 states, covering 1200 cities with offices in the respective states, regional areas, and local areas. They carried out their interventions and activities related to sanitation facilities in collaboration with municipalities/municipal corporations and other public agencies. It makes the direct provision of three types of sanitation facilities, first, construction of two pit flush toilets for individual houses, second, construction and maintenance of community toilets on a pay and use basis, and third, construction and maintenance of community toilets in slums and squatter settlements. United Nations Centre for Human Settlements (UNCHS) declared Sulabh’s toilet technology one of the “global best practices” in 1996, at a residency conference in Istanbul, Turkey. Sulabh was also awarded the Dubai International Award for “Best Practices for Improving the Environment” in 2000 for its toilet technology.³⁹ Under the Swachh Bharat Abhiyan (SBA) campaign, toilets are constructed on various toilet models developed by Sulabh, which suited rural India.⁴⁰

NGOs in India's WASH sector are working to ensure clean drinking water in every household, maintain a proper sanitation system, and create awareness of hygiene-related issues. According to United Nations Children Education Fund

³⁷ WHO / UNICEF, Joint Monitoring Program (JMP). Available at: <https://washdata.org/how-we-work/about-jmp> (visited on: June 08, 2020)

³⁸ Seetha Gopalakrishnan, ‘Sulabh International Welcomes the Prime Minister's Call for a Swachh Bharat, Sanitation, India Water Portal (2014). Available at: <https://sanitation.indiawaterportal.org/english/node/2912> (visited on: November 12, 2019)

³⁹ Sulabh International Social Service Organisation. Available at: <https://www.sulabhinternational.org/sulabh-technologies/> (visited on: June 08, 2020)

⁴⁰ Ornella D’Souza, ‘Sulabh’s celebrations and triumphs on World Toilet Day, *The Indian Express*, November 2019.

(UNICEF), inadequate WASH services contribute significantly to a high mortality rate. When children suffer from diseases due to inadequate hygiene, they are often unable to maintain regular schooling. **Khushii** (Kinship for Humanitarian, Social and Holistic Intervention in India), an education NGO, is also a major NGO in the WASH sector. Khushii believes that sanitation and hygiene are directly linked to the education system because a healthy body creates a healthy mind. Therefore, Khushii gives priority to health and hygiene concerns when organizing education donations all over India.⁴¹ According to the government report (Children in India 2018), published in 2018, about 30 percent of girls drop out of school by reaching Class IX, and in the eleventh grade, the number increases to 57%⁴² With this vision, the Bangalore-based, Not-for-Profit Organization, **Sikashana Foundation**, launched a WASH program in over 3000 schools in Karnataka, Maharashtra, and Telangana.

5.3 PRIVATE SECTOR PARTICIPATION (PSP) OR CORPORATE SOCIAL RESPONSIBILITY (CSR) IN SANITATION SECTOR IN INDIA:

Developing countries face many challenges due to rapid population growth and unregulated urbanization. High population density leads to the unavailability of land to build feasible water and sanitation facilities. Among these many challenges, sewerage, waste generation and poor sanitation are also included. It is estimated that poor sanitation costs 5.2% of its Gross Domestic Product (GDP) annually in India.⁴³ Addressing the Sanitation crisis in India is a national priority for the Indian government. That is why a nationwide program, Swachh Bharat Abhiyan (SBM), was launched with an ambitious goal to eradicate open defecation by 2019. An initial total commitment of USD 30 billion⁴⁴ was made for the program, which was expected to contribute significantly to India's achievement of the Sustainable Development Goal 6 (SDG 6) on clean water and sanitation.

⁴¹ Water, Sanitation and Hygiene (WASH). Available at: <https://en.wikipedia.org/wiki/WASH> (visited on: April 06, 2020)

⁴² Government of India, Children in India 2018: A Statistical Appraisal, Ministry of Statistics and Programme Implementation (2018). Available at: Children in India 2018 Read more at: http://timesofindia.indiatimes.com/articleshow/66900622.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (visited on: October 23, 2019)

⁴³ The report of the Joint Monitoring Programme of the United Nations International Children's Emergency Fund and the World Health Organisation (2015)

⁴⁴ MDWS Intensifies Efforts with States to Implement Swachh Bharat Mission, *Business Standard*, 18 March 2016.

Sanitation services like collection, treatment and disposal of sewage and waste are an essential function of Urban Local Bodies (ULBs) in the country. These sanitation services require huge capital investment, high cost for operation and maintenance of facilities, and considerable human resources, hence this service is becoming more and more expensive. Further, the efficiency of the labour force working in the urban local bodies is not satisfactory. The high pay structure and inefficiency of the workforce have resulted in a steep rise in the cost of service, yet people at large are not satisfied with the level of sanitation services being provided by the local bodies. Therefore, private sector services had to be resorted to in sanitation services by the local bodies.⁴⁵ Local governments are now more aware of the benefits of privatization. The objective of Public, Private, Partnership (PPP) is to increase fund flow and efficiency and improve the quality of service delivery by leveraging the expertise of the private sector and increasing the level of satisfaction amongst the users.⁴⁶

In India, the corporate sectors play a significant role in catalysing societal change. The Prime Minister invited citizens in public and private sectors to invest in toilets and eliminate open defecation from the urban and the rural areas. The corporate sector responded warmly to Prime Minister Modi's call for a clean India, and Swachh Bharat Kosh (SBK) set up to attract Corporate Social Responsibility (CSR) funds from Corporate Sector and contributions from individuals and philanthropists. Over the next two years (2016-2017), the Swachh Bharat Kosh received evident spending as a part of Corporate Social Responsibility (CSR). The government made a Swachh Bharat Kosh (SBK) under the Companies Act, 2013, to promote sanitation and make available safe drinking water.⁴⁷

Corporate Social Responsibility (CSR) is a sense of responsibility of a company towards the community and environment (ecological and social). Companies can fulfil this responsibility through waste and pollution reduction processes by contributing to educational and social programs and conducting similar activities. The Ministry of Corporate Affairs had formulated Section 135 and Schedule VII of The Companies Act, 2013, and the provisions of the Companies

⁴⁵ Available at: http://cpheeo.gov.in/upload/uploadfiles/files/systems_chapter6.pdf (visited on: May 3, 2021).

⁴⁶ *ibid*

⁴⁷ Swachh Bharat Kosh (SBK). Available at: <http://sbkosh.gov.in/> (visited on: October 23, 2019)

(Corporate Social Responsibility Policy) Rules, 2014, which prescribes mandatory provisions for Companies to fulfil their CSR. Enactment of Companies Act was one of the world's most extensive experiments of introducing CSR as a mandatory provision by imposing a statutory obligation on Companies to take up CSR projects towards social welfare activities. It has made India the only country to have controlled and mandated CSR for specific companies registered under the Act. This CSR initiative will drive the nation towards achieving sustainable development and public-private partnership in India's transformation.⁴⁸

The Act provides that any company, private limited or public limited, which either has:

- a net worth of Rs. 500 crores or more, or
- a turnover of Rs.1,000 crores or more, or
- a net profit of Rs. 5 crores or more in any financial year,

Needs to spend at least 2% of its average net profit for the immediately preceding three financial years on corporate social responsibility activities (excluding dividends received from other companies complying with provisions of Section 135 of the Act).⁴⁹ The government is also working towards mandating 30 percent of CSR funding towards sanitation, which could see more private investment in sanitation and waste management.⁵⁰ The activities of CSR should be related to the activities mentioned in Schedule VII of the Act. Entry I of Schedule VII contains the issues of sanitation with many other topics. It says eradicating hunger, poverty, and malnutrition, promoting health care and sanitation, including contribution to the Swachh Bharat Kosh.⁵¹

The Swachh Bharat Kosh (SBK) has enabled several large and small private and public companies to support the SBM. In 2014-2015 India's corporate sector spend nearly USD 6.1 million towards toilet construction under Swachh Bharat Abhiyan. Within two years (2016-17), the donations seemed to have dwindled. The

⁴⁸ Government of India, Report of the High Level Committee on Corporate Social Responsibility, 2018 (Ministry of Corporate Affairs August, 2019). Available at: http://www.mca.gov.in/Ministry/pdf/CSRHLC_13092019.pdf (visited on: October 12, 2020)

⁴⁹ The Companies Act, 2013, s. 135

⁵⁰ Available at: <https://swachhindia.ndtv.com/looking-beyond-csr-can-private-sector-companies-transform-the-sanitation-sector-into-a-profitable-business-model-6911/> (visited on: October 12, 2020)

⁵¹ The Companies Act, 2013, Schedule VII.

approximately USD 36 million, in which, USD 32 million came from the public sector companies, other companies, and the rest of USD 4 million came from charitable organizations, donated towards Swachh Bharat.⁵² Corporates in India follow varied ways of engagement in addressing the Sanitation challenge through the CSR mandate.

Some corporate sector, working within the ambit of Swachh Bharat, can already be seen since the campaign started. Anand Mahindra, Chairman of **Mahindra & Mahindra Group**, spent Rs. 24 crores constructing 4,597 toilets in 11 districts of India and Rs. 6 crores to maintain those toilets. The founder and CEO of the **UTV Group**, Ronnie Screwvala, also did a lot of work to improve sanitation conditions in rural India. Screwvala's **Swadesh Foundation** focuses on 2,000 villages in Maharashtra's Raigad district and has built nearly 14,000 toilets in the villages. The CSR wing of **Bharti Enterprises** constructed over 5,000 toilets in 210 villages in Ludhiana in 2015. However, such examples have been few and far between three years since the launch of the Swachh Bharat Mission. Many private sector companies abstained from active participation in the Swachh Bharat Mission for various reasons. The construction and maintenance of toilets require private sector companies to work closely with municipalities, block development offices, gram panchayats. Still, the difficulty in coordination with these local bodies is seen as a major obstacle.⁵³

In the Financial Year 2018-2019, **Toyota Kirloskar Motor** built more than 795 toilets in 237 government schools, educating and training more than 270,000 village population on sanitation through this uniquely designed project ABCD (A Behavioural Change through Demonstration) in Karnataka. Their target was to cover 100% sanitation in 1000 schools to make them Open Defecation Free across Karnataka by the year 2018-19.⁵⁴ **ITC Limited** spent ₹ 306.95 crores to promote healthcare and sanitation. During the financial year 2018-19, 4,443 individual household toilets were constructed in India's 15 states in 26 districts, collaborating

⁵² Available at: <https://swachhindia.ndtv.com/looking-beyond-csr-can-private-sector-companies-transform-the-sanitation-sector-into-a-profitable-business-model-6911/> (visited on: October 12, 2020)

⁵³ Available at: <https://swachhindia.ndtv.com/looking-beyond-csr-can-private-sector-companies-transform-the-sanitation-sector-into-a-profitable-business-model-6911/> (visited on: October 12, 2020)

⁵⁴ Toyota Kirloskar Motor's [TKM] unique CSR Initiative 'Project ABCD' makes it way to Harvard Case Study List, Toyota Bharat, July 2019. Available at: <https://www.toyota-bharat.com/news/2019/toyota-kirloskar-motors-tkm-unique-csr-initiative-project-abcd-makes-it-way-to-harvard-case-study-list.html> (visited on: September 15, 2020)

with the state governments and District Sanitation Departments by ITC's CSR programs. Also, 32 community toilets were constructed and renovated in Bihar, West Bengal, and New Delhi last year.⁵⁵

Tata Chemicals Ltd. was ranked number one company for Sustainability & CSR practice in sixth Responsible Business Ranking 2019 and ranked third in 7th Responsible Business Rankings 2020.⁵⁶ The company spent an actual amount of ₹25.68 crores for FY 2018-19 through its CSR initiation, called BEACON, contributing to India's rural development. Tata Chemicals Society for Rural Development (TCSRSD) also inaugurated a dry waste processing plant at Mithapur under the Swachh Bharat Abhiyan campaign to process three different plastic waste categories: Industrial, Municipal, and Scrap.⁵⁷

Nestle strongly believes that safe sanitation is necessary for healthy living. Through its CSR initiatives, the company is committed to increasing access to sanitation and sanitation facilities. Its focus is to construct sanitation facilities around its factory locations. As the company focuses on the holistic development of communities, most schools in the area it operated lacked separate toilets for boys and girls. It is a significant concern for the female students of the area who choose to drop out of the schools without safe sanitation facilities. Intending to create an equitable educational opportunity for males and females, Nestle CSR has supported modern, easily maintainable modular toilets for girls in schools across all its factory and branch locations. Hygiene facilities in these schools provide a healthy learning environment, encouraging education and empowerment of female students. Until 2019, the company has benefited over 200,000 female students by setting up sanitation facilities in over 600 government schools.⁵⁸ To generate awareness about the safe disposal of plastic waste, Nestle CSR has initiated the project “HILLDAARI” in Mussoorie, Dalhousie, and Nainital to empower waste workers. The project focuses on working collectively with local stakeholders like urban local bodies, institutions,

⁵⁵ ITC spends Rs. 306.95 cr. on CSR during 2018-19, India CSR Network, July 2019. Available at: <https://indiacr.in/itc-spends-rs-306-95-cr-on-csr-during-2018-19/> (visited on: September 15, 2020)

⁵⁶ Tata Chemicals takes the top spot for Sustainability and CSR in Responsible Business Ranking 2019, India CSR Network, November 2019. Available at: <https://indiacr.in/tata-chemicals-takes-the-top-spot-for-sustainability-and-csr-in-responsible-business-ranking-2019/> (visited on: September 15, 2020)

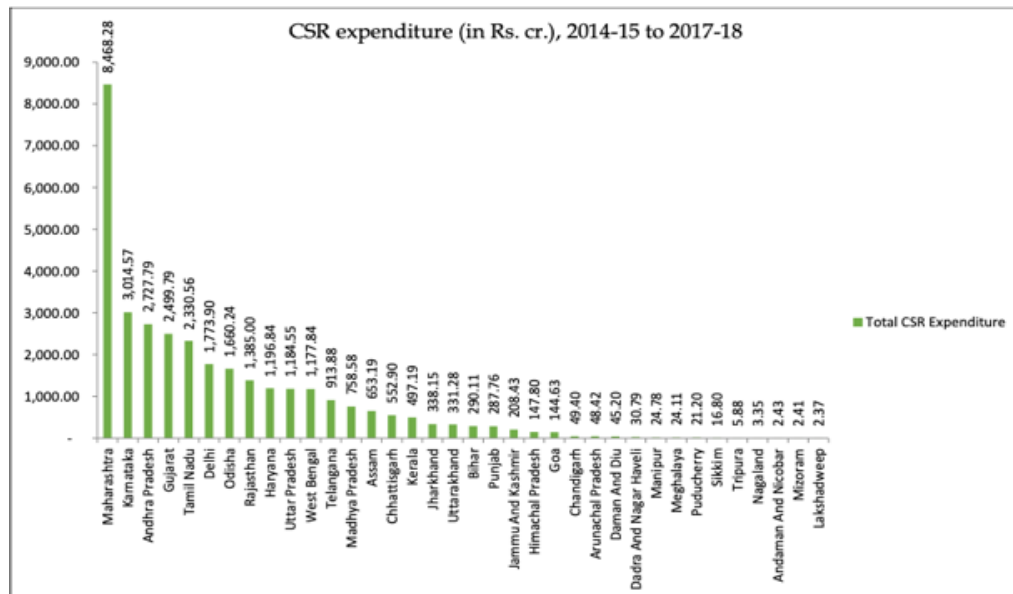
⁵⁷ CSR News, the CSR Journal, September 2020. Available at: <https://thecsrjournal.in/csr-news-tata-chemicals-bags-3rd-spot-in-responsible-business-ranking-2020/> (visited on: September 15, 2020)

⁵⁸ <https://thecsrjournal.in/the-complete-report-on-csr-activities-of-nestle/>

residents, households, waste generators, and waste workers to raise awareness about anti-littering and segregation at source.

Tata Consultancy Group is a large spender on toilets, even before the Companies Act. It was the first to proclaim its commitment to financing hygienic sanitation facilities for girls. The company has announced that it has pledged 18.5 million USD to build toilets in about 10,000 schools. In the past, the Tata group has constructed at least 2,000 toilets annually. Note that this effort comes from the group itself, not from a separate Foundation.

Figure 5.1: CSR funds across states with receiving maximum funds positioned on the left and receiving minimum on the right. (From the FY 2014-15 to 2017-18)



Source: www.mca.gov.in

Figure 5.1 shows the expenditure under CSR activities in the Sanitation sector. It was Rs. 299.54 crores in FY 2014-15, Rs. 631.73 crore in FY 2015-16, Rs. 421.51crore in FY 2016-17 and Rs. 280.81 crore in FY 2017-18. Total expenditure was Rs. 1,633.59 crores till 2019.⁵⁹ The corporate sector should share its best practices to transform the sanitation sector into a potentially profitable business.

Corporate India enthusiastically responded to the Government’s call-to-action with SDGs 16 and 17 on Water, Sanitation and Sanitation (WASH) issues. Also,

⁵⁹ Government of India, Report of the High Level Committee on Corporate Social Responsibility, 2018 (Ministry of Corporate Affairs August, 2019). Available on: http://www.mca.gov.in/Ministry/pdf/CSRHLC_13092019.pdf (visited on: October 12, 2020)

water sanitation and lack of sanitation practices have an undeniable link to the spread of diseases like COVID-19. Just as the health workers of the country are working tirelessly to save lives, similarly, our sanitation workers are also working in every ward and locality so that we remain safe and healthy from COVID-19. The corporate sectors are also trying to sanitize public places, villages and others. Further, apart from the distribution of surgical masks, sanitisers, liquid soaps and cleaning items in and around the house, corporates are conducting informational and awareness sessions to help people understand the benefits of hygiene.⁶⁰

Furthermore, the Ministry of Corporate Affairs has announced that CSR funds can be used for activities related to COVID-19. It also clarified that CSR funds should be spent on creating health infrastructure for COVID care, including sanitation and disaster management.⁶¹

5.4 MEDIA AND SANITATION:

The media (television, radio, print media, internet, and email) can play a proactive role in spreading information and raising awareness on sanitation. They enable to influence and change public opinion, attitude, and behaviour in masses (rural and urban) regarding unhealthy sanitation practices. This may increase public pressure on local policy actors. So, the media may indirectly influence decision-makers as well.⁶² Media can help shape an open and more democratic society, and importantly they can also help reach more concrete goals. Media can be useful for the following reasons:-⁶³

- Fast exchange of information.
- It can change public attitudes and behaviour.
- Information on all different levels of knowledge.
- Inform the public about issues and proposed solutions.

⁶⁰ Business Response to COVID-19 through CSR, National Foundation of Corporate Social Responsibility, Indian Institute of Corporate Affairs (IICA). Available at: https://iica.nic.in/images/CSR_COVID_Publication.pdf (visited on: May 1, 2021)

⁶¹ Available at: https://www.mca.gov.in/Ministry/pdf/GeneralCircularNo9_05052021.pdf (visited on: May 1, 2021)

⁶² Doerte Peters, Media Campaigns - Social Media, Sustainable Sanitation and Water Management Toolbox. Available at: <https://sswm.info/node/7399> (visited on: October 01, 2020)

⁶³ Adam Burke, *Communications & Development: a practical guide* p.14 (Social Development Division, London, 1999)

- Influence decision-makers and opinion leaders.
- Enables networking across local, regional, and national boundaries.
- Newsletters enable to participate in local actions: people can ask questions.
- Media can help shape a more democratic society by spreading understanding, sparking debate, and increasing accountability.

Media not only keeps people close to the latest developments in various walks of life but also helps in forming an opinion on important issues by informing and educating people. In other words, along with the imagination of media, it also has a hold on the thinking faculties of the society. The government of India and different state governments are using all media platforms for achieving the objectives of the Swachh Bharat Mission by spreading awareness among the masses for this. Newspapers report poor sanitation of India through news, articles, features, and editorials. Moreover, the everyday public sees a lot of advertisements in newspapers, TV, radio where they ask the public to support the Swachh Bharat Mission and help to widen the campaign and make everyone a part of it.⁶⁴

Since 2014, the BBC Media Action has been supporting the Swachh Bharat Mission through various innovative projects to help change attitudes and behaviours among the general public towards sanitation practices across India. Working with the Bill & Melinda Gates Foundation and the Government of India, BBC researched how to prevent people from defecating in the open and persuaded them to use the toilet. BBC also produced a series of five short films (in English and Hindi) called 'A People's Movement'. The films tell real stories of individuals from different walks of life who have adopted innovative ways to encourage toilet use and safe waste management practices in their communities.⁶⁵

The Swachh Bharat Abhiyan uses social media platforms to increase transparency and promote the nation's efforts to improve its image of sanitation. In the new millennium, the internet has encouraged and fostered knowledge of government policies and the citizens of different cultures. In this new era of the internet, social media sites like Facebook, YouTube, or Twitter are being used extensively. Through

⁶⁴ Pitabas Pradhan, Swachh Bharat Abhiyan and the Indian Media, vol.5, *Journal of Content, Community & Communication*, pp.43-51 (2017)

⁶⁵ Innovative communication to improve sanitation in India, BBC Media Action. Available at: <https://www.bbc.co.uk/mediaaction/where-we-work/asia/india/sanitation> (visited on: October 01, 2020)

which youths are very much connected with global/local issues. Although not limited to youths only, industry and government agencies are also utilized social media platforms as a preferred tool of communication with the general public. Public awareness campaigns are also using these social media sites.

Prime Minister Mr. Narendra Modi has appreciated people's efforts and asked various government departments and organizations to participate in the Swachh Bharat Mission and contribute actively. In 2003, the Government of India launched an exclusive website for sanitation and drinking water supply. A comprehensive website is offering full information on sanitation programs and initiatives. For this purpose, improvements have been made to the website of the Ministry of Drinking Water and Sanitation and in its online monitoring system for capturing achievement data. The social media accounts like '@swachhbharat' on Twitter, 'https://www.facebook.com/SBMGramin/' on Facebook, and WhatsApp/HIKE are being extensively used for sharing real-life Swachhata Stories from the ground, and also as a platform for cross-learning by sharing innovative ideas. An app developed in Bengaluru, called 'Swachh Bharat Swachh Bengaluru,' marks the garbage locations in Karnataka's capital. Another app, called 'My Clean India - Swachh Bharat,' allows users to take and tag photos of contaminated areas and invite friends on social media. The Swachh Bharat Apps is empowering citizens to be part of the solution. For this, from Government Officials to Jawans, Bollywood actors to the Sports persons, Industrialists to Spiritual leaders, all have lined up for this noble work of cleanliness drive of surrounding areas. Print and electronic media have also been publishing several articles and TV features on sanitation issues, and social media, through its public message, has given wider publicity to Swachh Bharat Abhiyan. These are some examples of different online methods of spreading awareness regarding sanitation.

Apart from this, the Ministry for Housing and Urban Affairs launched the **Swachhata App, A Grievance Redressal Application**,⁶⁶ to address Swachhata related complaints. The app is conceived as a tool to enable citizens to complain to the concerned municipal corporation. A citizen can click the picture of the problem area

⁶⁶ The Hon'ble Minister for Housing and Urban Affairs launched the Swachhata App (a grievance redressal tool), on 6th August 2016 for 4,041 statutory towns of India. The Swachhata app and Portal is to be used by citizen to help Municipal corporations spot the unclean areas in the city and take necessary steps. (Available at: <https://sbmurban.org/swachhtha-app>)

and submit the complaint to the concerned ward engineer, the city's nodal officer. So far, 1.08 crore complaints have been registered with a resolution rate of more than 90%. **Swachh Manch Online citizen engagement portal** empowers stakeholders to volunteer and contributes to the Swachhata of their cities. Approximately one crore + citizens participate in about one lakh + events. The 'Swachhata Selfie' weekly radio show on All India Radio (AIR), airing 37 episodes from across the country presenting inspiring stories on Swachhata, is broadcast on 71 AIR channels every Monday. The Ministry of Housing and Urban Affairs (MoHUA) has collaborated with Google Maps to develop a feature that allows citizens to locate the nearest public toilet on Google Maps and also rate and review. So far, 37,000+ SBM Toilets across 1,065 cities are live on Google Maps, affecting more than 50% of the urban population.⁶⁷

A recently launched youth-driven social media campaign, "**Take Poo to the Loo**," is spreading awareness about open defecation. The campaign was founded in the aftermath of UNICEF's "**Poo Party**" social awareness campaign, in which Mr. Poo (an animated faecal mascot) sought to raise citizens' awareness of the health dimensions of open defecation (such as diarrhoea and dysentery). "Take Poo to the Loo" features a music video written and composed by the famous Indo-Jazz composer Srikanth Sriram. Famous Indian bands like the Indian Ocean and Raghu Dixit have also come out in their support. Quirky, fun, and informative, this campaign song aims to bring youth to the forefront of the movement against open defecation. Making imaginative use of "toilet sounds" reminds people that if left unaddressed, open defecation may encroach on personal space and make existence unbearable.⁶⁸ Students from prestigious Indian educational institutions, including the Indian Institute of Technology Delhi, have started using the message to raise awareness about the impact of open defecation on health and the environment. Punjab launched a campaign, "**My village, my pride**," which is considered the first state to launch the Open Defecation Free (ODF) Sustainability App. It is one of its kind to cover all parameters related to sanitation as well as sustainability. The App, My village, my pride, also featured various competitions between villages like ODF awareness,

⁶⁷ Government of India, Transforming URBAN Landscape 2014-2019, Ministry of Housing & Urban Affairs (March 2019) p21. Available at: <http://mohua.gov.in/upload/5c7faf00eac57UT%20Book1.pdf> (visited on: November 1, 2019)

⁶⁸ Sriroop Chaudhuri & Mimi Roy, Rural Sanitation in India: The Poo Party, *Stanford Social Innovation Review*, 2018.

morning nigrani, cleanliness drive, women Mohalla, soak pit awareness, and solid waste segregation.⁶⁹

An unusual but ambitious social marketing campaign, commonly known as “**No Toilet, No Bride,**” aimed at providing sanitation messages to families operating in domestic marriage markets, was launched in Haryana state authorities in 2005 to increase the ownership of toilets. The campaign was a part of the Total Sanitation Campaign (TSC). This social marketing campaign encouraged the marriage-age girls and their families to demand that boys’ families build a private latrine before they agree to the marriage. The slogan “no toilet, no bride” and “no loo, no I do” disseminated *via* mass media messaging such as billboards, posters, and radio advertisements. These messages were framed by women’s concerns about privacy and dignity when they defecate in the open.⁷⁰ Due to this campaign, private sanitation coverage was increased by 21 percent in Haryana among households with boys active on the marriage market from 2004 to 2008. The main reason that this campaign succeeded was the lack of women in Haryana.⁷¹

TV programmes on the theme of Swachhata were also created. These included *Chalo Saaf Karein*, *Safar Manzilon Ka* and *Main KuchBhi Kar Sakti Hoon* (Season 2) that aired on Doordarshan, and *Hum Saaf Saaf Hain* that aired on Rishtey Channel. The Ministry provided content support for these television shows that took the message of Swachhata to everyone’s household.⁷²

Through other initiatives, such as thematic drives with citizen participation, engaging students and self-help groups to be the agents for social behaviour change, engaging Swachhagrahis across the country to drive behaviour change, running multi-media communication campaigns with messages of ‘swachhata,’ ‘swachhata selfie’ series on the radio that captures best practices in sanitation and solid waste management from across the country and use of various Information Communication Technology (ICT) tools and apps for greater citizen participation and engagement.

⁶⁹ Arun Jaitly, A People’s Movement, *YOJANA*, November 2018, p8

⁷⁰ Yaniv Stopnitzky, ‘No toilet no bride? Intrahousehold bargaining in male-skewed marriage markets in India’, 127, *Journal of Development Economics* (2017) pp.269–282

⁷¹ Sharada Balasubramanian, ‘No Toilet, No Bride’ Campaign Sees Success in Haryana’, *The WIRE*, August 2017. Available at: <https://thewire.in/society/no-toilet-no-bride-campaign-success-haryana> (visited on: November 1, 2019)

⁷² Government of India, Annual Report 2018-19 (Department of Drinking Water and Sanitation, Ministry of Jal Shakti, 2019)

There is now a growing appreciation among people that sanitation and cleanliness are not the government's sole responsibility and that each of us is equally responsible for maintaining the cleanliness of our surroundings.⁷³

5.5 INITIATIVE TAKEN BY THE MINISTRIES OF THE GOVERNMENT

Providing sustainable sanitation and hygiene is a major challenge for India's largest, diverse, and growing population. The Ministry of Drinking Water and Sanitation (MoDWS) and the Ministry of Housing and Urban Affairs (MoHUA) are organizing and coordinating all activities and initiatives for Swachh Bharat in all states. Sanitation is Everyone's business does not serve only as a beautiful slogan in Swachh Bharat mission, but it is the functional foundation of the systematic movement from policy to projects. These ministries (MoDWS & MoHUA) are continuously working with all other central ministries, state governments, local institutions, non-governmental organizations, trust organizations, media, and stakeholders. Various ministries, coordinating with MoDWS and MoHUA, are hosting special initiatives and projects relating to sanitation.

Sanitation work by non-sanitation ministries and departments, giving time and resources out of their core business, holds eminent assurance that the path of Swachhata should be irreversible. Non-sanitation ministries and departments have developed several special projects with measurable outcomes to help the Union Ministries to build swachhata into their schemes and policies. As a result, the Swachh Bharat Mission has become an effort across all stakeholders.

Ministry of Petroleum and Natural Gas has developed a Swachhata@PetrolPump app to monitor and improve sanitation levels at the petrol pump and service stations. The Department of School Education and Literacy has achieved 100% gender-segregated toilets in all schools. Ministry of Civil Aviation, Power, and Rural Development has implemented Water Conservation, Bio-fuel, Waste Recycling, and Waste to Energy initiatives. Ministry of Railways has introduced a Bio-Vacuum Toilet to provide clean and efficient toilets and reduce the water consumption in toilets. The Railways have also taken up a pilot project in Delhi

⁷³ Durga Shanker Mishra, 'Sanitation Revolution: Cleansing Urban India', *YOJANA*, November 2018, p49.

and Jaipur to dispose of municipal solid waste generated at railway terminals in an environment-friendly manner. In 2016, the cleanliness of railway stations was audited, by an independent third-party agency, for the first time. The Swachh Rail, Swachh Bharat 2018 assessment has seen immense progress in cleanliness. It was a clear outcome of the combined effort of the railway officials and passengers.⁷⁴

Hygiene directly affects women and children's health, leading to infant and female mortality issues. The Ministry of Health and Family Welfare has played an essential role in ensuring good health and hygiene by providing awareness to women and children about a clean and safe environment. In 2017, as a part of its efforts to expand and strengthen sanitation and hygiene interventions, National Health Mission had launched a new campaign, VISHWAS: Village-based Initiative to Synergise Health, Water and Sanitation, a year-long campaign to be carried out by Village Health Sanitation and Nutrition Committees (VHSNCs) to build community awareness and develop local champions for action on the water, sanitation, and health, and create a platform for building synergies under Swachh Bharat Mission.⁷⁵ MoHFWs' **Kayakalp**' initiative began in 2015 to improve infrastructure upkeep, hygiene and sanitation, and infection control practices in Central Government institutions and public health facilities in all 36 States and UTs. Kayakalp health facilities undertake their own assessment on several parameters. Every year, the highest-scoring facilities at each level receive recognition through Kayakalp Awards that carry a cash award, apart from a citation. Under the Scheme, Central Government Institutions may receive as Award Money, up to Rs. 2.5 crore, while the winner District Hospital receives a sum of Rs. 50.00 lakhs, Community Health Centre (CHC) Rs. 15.00 lakhs and Primary Health Centre (PHC) Rs. 2.0 lakhs.⁷⁶

⁷⁴Alok Kumar Tewari, 'Swachh Rail, Swachh Bharat,' *YOJANA*, November 2018, p74.

⁷⁵ Under the National Rural Health Mission (NRHM) now the National Health Mission, the proposed campaign 'VISHWAS' (Village based Initiative to Synergise Health, Water and Sanitation), VHSNC Campaign Initiative for Swachhta and Swasthya, will be carried out under the leadership of VHSNCs and will build a collective initiative at community level, for improving Water, Sanitation and Hygiene situation and its impact on Health and quality of life. Available at: https://nhm.gov.in/New_Updates_2018/publication/NHM_Guidelines/Revised_VISHWAS_Module_2_7_07_17.pdf (visited on: November 22, 2019)

⁷⁶Government of India, Guidelines for Implementation of "Kayakalp" Initiative, (Ministry of Health and Family Welfare, 2014). Available at: https://nhm.gov.in/images/pdf/in-focus/Implementation_Guidebook_for_Kayakalp.pdf (visited on: November 22, 2019)

Another scheme, **Swachh Swasth Sarvatra**, is a joint initiative of the Ministry of Health & Family Welfare and the Ministry of Drinking Water and Sanitation to achieve better health outcomes through improved sanitation and awareness of healthy lifestyles. Its objective is to have more synergy between two complementary programs, i.e., Swachh Bharat Mission (SBM) and Kayakalp.⁷⁷

Swachh Iconic Places (SIP), as a component of SBM, is a multi-stakeholder initiative focusing on cleaning up 100 places across India that are iconic due to their heritage, religious or cultural significance. It was decided by the ministry that places of heritage, with significance for history and culture and centers of pilgrimage marked by high footfall, would be taken up to raise them to distinctly higher levels of cleanliness. The Prime Minister has advised not just to keep the iconic sites clean, but also the peripheral and the surrounding areas. For implementation, MDWS coordinates with partner ministries like Housing and Urban Affairs, Tourism and Culture, and States, Local bodies, Trusts, and Managing Committees that manage the iconic places. Several Public Sector Undertakings and private corporates have come forward to support the sanitation action plans of these SIPs financially, technologically, and management skills. Currently, 30 sites have been taken up under this project and are at different stages of implementation. The plan is to take up 100 such places in phases to improve sanitation so that the visitors' experience is a happy one.

National Highway Authority of India is providing separate ladies and gents toilet on the upside and downside of the toll plaza. The target was that all 372 toll plazas across the country would get covered by March 2019. Litterbins and hoardings are also being put up with swachhata message and the message of discouraging littering at these sites. The Road Ministry is also trying to generate less waste during road building and waste material like fly-ash, plastic, oil slag, and municipal waste to construct highways.⁷⁸

⁷⁷ Operational Guidelines Swachh Swasth Sarvatra, A joint Initiative of the Ministry of Health and Family Welfare (MoHFW) and the Ministry of Drinking Water and Sanitation (MDWS) Under the Swachh Bharat Mission. Available at: https://nhm.gov.in/images/pdf/in-focus/swachh_swasth_sarvtra_09_02_2018.pdf (visited on: January 22, 2020)

⁷⁸ Nitin Gadkari, 'On the Road to Swachh Bharat: Providing Sanitation Infrastructure', *YOJANA*, November 2018

The Ministry of Shipping has also focused on setting up ‘Green Ports’ for sustainable, environment-friendly, and long-term port development. Visakhapatnam Port Trust was adjudged as the winner in the category of Outstanding Renewable Energy User in India's service sector by the Indian Federation of Green Energy.⁷⁹

Managing wastewater is a big challenge for the whole world today, whether rural or urban. Lack of planning and infrastructure for wastewater management leads to unclean life situations, which causes the spread of infectious diseases. In this connection, soakage pits were being constructed in Telangana state and in the Nanded district of Maharashtra through MGNREGA at the family and community level to get rid of mosquitos. The scheme was implemented in about 30 villages.⁸⁰

Recently, the Minister of Housing and Urban Affairs announced **Safaimitra Suraksha Challenge**, coinciding with World Toilet Day, i.e., 19th November, to end the discriminatory and hazardous practice of manual scavenging by August 2021. The measures are part of the Swachh Bharat Abhiyan. Social Justice and Empowerment Ministry said that funds would directly transfer to ‘sanitation workers’ to buy cleaning machines, instead of contractors or municipal corporations. In this initiative, the word ‘machine-hole’ will be used instead of ‘manhole.’⁸¹

Above mentioned some of the initiatives taken by various ministries complement the SBM's efforts to take forward the mandate of sanitation and waste management. The focus will now be not only on sustaining the momentum but also on accelerating the pace further through innovative, game-changing approaches, along with a strong regulatory and legal framework and strict enforcement.

5.5.1 Monitoring Programs by the Government:

- **Swachhata Pakhwada:**

Swachhata Pakhwada was launched in 2016 with a vision to engage all Union Ministries and Departments in Swachhata-related activities. Under these activities, 4-5 ministries are given 15 days in a year following a pre-decided calendar to carry out countrywide initiatives within their jurisdiction. During this 15 days process,

⁷⁹*ibid*

⁸⁰ Narendra Singh Tomar, ‘Towards Clean and Healthy Villages’, *YOJANA*, November 2018

⁸¹ Centre Announces New Measures to End Manual Scavenging by August 2021, *The WIRE*, 20 November 2020. Available at: <https://thewire.in/caste/centra-announces-new-measures-to-end-manual-scavenging-by-august-2021> (visited on: November 22, 2020)

ministries report their sanitation activities daily on an online portal of Swachh Bharat Mission. MDWS has documented the efforts of Union Ministries and Departments, observing Swachhata Pakhwada over the last two years in the form of a Yearbook. Seventy-six ministries and departments have observed Swachhata Pakhwada during 2018-19.⁸²

An estimated 65 million tons of municipal solid waste is generated annually by around 400 million citizens residing in India's urban areas. We are also losing 1,250 hectares of additional precious land every year to accommodate unprocessed municipal solid waste dumping. MoHUA has adopted a multi-pronged scientific approach to address the complex issue of waste management in India's urban areas, including policy and regulatory changes to encourage waste processing. Along with this, an initiative like '**Swachh Sarvekshan**' was also taken up to develop a sense of healthy competition and star rating for waste-free cities to ensure long term sustainability. Swachh Sarvekshan is a tool for the SBM monitoring process in urban areas. MoHUA has been conducting the Swachh Sarvekshan, an annual survey to rank cities on various sanitation and cleanliness parameters.

- **Swachhata Sarvekshan**

Swachhata Sarvekshan, as part of the Swachh Bharat Abhiyan, is an annually launched prize incentive scheme with the objective of surveying cleanliness, hygiene, and sanitation in cities and towns across India. The surveys are carried out by the Quality Council of India (QCI) but the methodology, process, and outcome indicators of the survey were designed by the Ministry of Urban Development.

The ministry of housing and urban affairs, which is the nodal agency for the Swachh Bharat Mission, conducted its first survey i.e. 'Swachh Sarvekshan-2016', to rank 73 cities (53 cities with a population of over a million, and all state capitals), in January 2016.⁸³ The aim of the survey was to encourage cities to improve the level of cleanliness, sanitation, and hygiene. Sanitation rankings were based on several factors namely individual household toilets, construction of community and public toilet seats, door-to-door collection of waste and waste management, and treatment. The cities were ranked out of a total of 2,000 marks of which 900 marks were for data

⁸²Akshay Rout, 'Sanitation as Everyone's Business', *YOJANA*, November 2018.

⁸³ Government of India, Report of 'Swachh Sarvekshan, 2016' (Ministry of Urban Development, 2016).

from municipal bodies, 500 marks for direct observation, and 600 marks for direct citizen feedback. **Mysuru** (Karnataka) remained the cleanest city second time⁸⁴ in the country while Dhanbad (Jharkhand) came at the bottom of 73 major cities surveyed for sanitation. The top 10 cities in terms of sanitation and hygiene in order of rank are Mysuru, Chandigarh, Tiruchirapalli (Tamil Nadu), New Delhi Municipal Council, Visakhapatnam (Andhra Pradesh), Surat, Rajkot, both in Gujarat, Gangtok (Sikkim), Pimpri Chindwad and Greater Mumbai, both from Maharashtra.⁸⁵

To expand the coverage of cities, the Quality Council of India, commissioned by the Ministry of Urban Development, has conducted its second survey i.e. ‘Swachh Survekshan-2017’ in January-February 2017, to rank 434 cities. It aims to foster a spirit of competition among the cities and offers a comprehensive assessment of their sanitation status. Among all the sanitation components (which were the basis of Swachh Survekshan-2016), the maximum weightage was given to the collection and transportation of solid waste, followed by progress on open defecation free (ODF) front. In this survey **Indore**⁸⁶ secured rank 1st, **Bhopal**⁸⁷ ranked 2nd and **Vishakhapatnam** ranked⁸⁸ 3rd cleanest city.

In ‘Swachh Sarvekshan 2018’, the scale of the survey and intensity of participation increased with 4,203 cities. The survey covered all ULBs and cantonment boards in the country between the periods of 4th January to 10th of March 2018. The objective of Swachh Survekshan-2018 was to encourage large scale citizen participation and create awareness amongst all sections of society about the importance of working together towards making towns and cities a better place to live. The parameters used to evaluate service level progress was also upgraded and six factors were considered.⁸⁹

⁸⁴ Last cleanliness survey was conducted in 2014, among 476 cities with a population of one lakh and above each and results were announced in year 2015. In this survey Mysuru ranked first. (The Government of India, Report of ‘Swachh Survekshan, 2016’ (Ministry of Urban Development, 2016).

⁸⁵ *ibid.*

⁸⁶ Indore (Madhya Pradesh) is a 9th largest city of in India with a population 19,6,086 as per Census, 2011 (www.censusindia.gov.in), and also known as the financial capital of Madhya Pradesh.

⁸⁷ Bhopal, capital of Madhya Pradesh in India.

⁸⁸ Vishakhapatnam is the largest city in Indian state of Andhra Pradesh in terms of area, with a population of 17,28,128, as per Census 2011. (Available at: www.censusindia.gov.in)

⁸⁹ Government of India, OCI Report of ‘Swachh Survekshan-2018’ (Ministry of Housing and Urban Affairs, 2018).

- Collection and transportation of municipal solid waste,
- Processing and disposal of municipal solid waste,
- Sanitation related progress,
- Information, education, and communication (IEC) activities,
- Capacity building,
- Innovation and best practices, was introduced.

As of December 2018, nearly 4,123 cities were declared open defecation free (ODF free) under this SBM's competitive ranking system.⁹⁰ **Indore, Bhopal, and Chandigarh** ranked first, second and third respectively. Ghaziabad (Uttar Pradesh) was applauded for the efforts that it has taken in the last year to make the city one of the cleanest in the country and has been awarded as the Fastest Mover in the Big City category (more than 10 lakh population category) in Swachh Survekshan-2018.⁹¹

Swachh Survekshan-2019, which spanned from fourth of January to 31st of January 2019, the Ministry of Housing and Urban Affairs has covered a total of 4237 ULBs and Cantonment Boards from all states and UTs.⁹² In 2019, the government decided to go paperless and conducted 100 percent digital Swachh Sarvekshan via an online management information system (MIS). This year, the cities were ranked out of a total of 5,000 marks. The data was equally collected from four different sources which are citizen feedback, direct observation, service level progress, and certification for waste and open defecation free cities. The new entrant in the mark sheet was 'certification' which is broadly divided into two categories i.e. garbage-free cities and open defecation free (ODF) cities.⁹³ **Indore** again has given the award of India's cleanest city for the third year in a row. **Ambikapur** (Chhattisgarh) and **Mysuru** (Karnataka) ranked second and third respectively. In Uttar Pradesh, Ghaziabad (National ranking 13) secured the top position in the state followed by Kanpur (National ranking 63), Jhansi (National ranking 68), and Varanasi (National ranking

⁹⁰Shaguna Kanwar, 'Four Years on, How Swachh Is Bharat?', *The Wire*, 17 May 2019. Available at: <https://thewire.in/urban/swachh-bharat-mission-urban-sanitation> (visited on: December 22, 2019)

⁹¹ Government of India, OCI Report of 'Swachh Survekshan-2018' (Ministry of Housing and Urban Affairs, 2018). Available at: swachhbharatuban.gov.in

⁹² Anisha Dutta, 'Swachh Survekshan 2020: Indore ranked cleanest city for the fourth consecutive year', *Hindustan Times*, New Delhi, Aug 20, 2020

⁹³ Government of India, OCI Report of 'Swachh Survekshan-2019', Ministry of Housing and Urban Affairs, (2019). Available at: swachhbharatuban.gov.in

70). According to Swachh Survekshan-2019, Agra has made significant improvement with rank 85th. Nationally. Last year, the city was ranked 102nd in the country.⁹⁴

Recently, in August 2020, the Ministry of Housing and Urban Affairs has announced its annual survey on cleanliness, which covered 4,242 cities. In which Madhya Pradesh's Indore is ranked the cleanest city for the fourth consecutive year under the Swachh Survekshan-2020. Surat in Gujarat and Navi Mumbai in Maharashtra were ranked second and third, respectively. In Uttar Pradesh, Noida has ranked as the cleanest city with a population of less than 10 lakh. The city ranked 15th in the state last year Swachh Survekshan-2019). In the National level Category, Noida ranked 25th position which was 150th in the last survey in 2019.⁹⁵

The MHUA launched the sixth edition of the survey i.e. Swachh Survekshan-2021. The indicators for the survey will focus on parameters of wastewater treatment and reuse along with faecal sludge. The issues of legacy waste management and remediation of landfills have been brought to the fore in the sixth edition of the Survekshan. The ministry has also added a new category called the 'Prerak DAUUR Samman' which has five additional sub-categories i.e. Divya (Platinum), Anupam (Gold), Ujjwal (Silver), Udit (Bronze), Aarohi (Aspiring). Besides the present criteria of evaluating cities on 'population category', this new category will categorize cities based on six select indicator-wise performance criteria.⁹⁶

The cleanliness and sanitation of the city are important concerns for the citizen. Sanitation mainly involves waste management while sanitation involves clean drinking water and proper disposal of sewage. The Swachh Sarvekshan which is the largest cleanliness survey in the world has improved the citizen's active participation in campaigns and spreading awareness in making their city cleaner.

- **Garbage-Free City Stars:**

The ministry has introduced a new innovative initiative to evaluate cities' garbage-free status and award the “**garbage-free City stars**” for the city. The star rating protocol, properly implemented, can prove to be a game-changer and

⁹⁴Deepak Lavania, 'Swachh Survekshan 2019: Fifth in UP, Agra makes it to top 100 clean cities of the country.' The Times of India, 7 March 2019.

⁹⁵ Government of India, OCI Report of 'Swachh Survekshan-2020', Ministry of Housing and Urban Affairs, (2020). Available at: swachhbharatuban.gov.in

⁹⁶Anisha Dutta, 'Swachh Survekshan 2020: Indore ranked cleanest city for the fourth consecutive year', Hindustan Times, New Delhi, 20 August 2020

revolutionize how solid waste is managed in India. The number of stars for their city can be one of the parameters for evaluating Administration and elected representatives' effectiveness in achieving swachhata. The Star Rating initiative is based on twelve (12) parameters. It follows a SMART framework, i.e., Single metric, Measurable, Achievable, Rigorous verification mechanism. It covers all aspects of Solid Waste Management, including Public Cleanliness, Door to Door collection, source segregation, processing, cleanliness of drains and water bodies, plastic waste management, managing construction, demolition waste, etc.

- **Swachhata Action Plan:**

Swachhata Action Plan, launched in April 2017, is the inter-ministerial program led by all the Central Ministries to ensure the annual planning and implementation of sanitation-related activities. All the Central Ministries/Departments have started work to achieve this significantly with appropriate budget provisions. It is very encouraging that all Ministries/Departments have committed sanitation funds during 2017-18, 74 Ministries/Departments contributed Rs. 18154.82 Cr. and for the year 2018-19, 72 Ministries/ Departments have allocated Rs. 17077.81 Crore.⁹⁷ In 2018, the ministries who won the Swachhata Action Plan were the Ministry of Petroleum and Natural Gas, Ministry of Road Transport and Highway, and Ministry of New and Renewable energy.

- **Swachhata Ambassadors:**

When launching SBM, the Prime Minister nominated nine celebrity icons as Ach Swachh Bharat Brand Ambassadors 'to contribute their efforts towards sanitation.' Today, more than 150 brand ambassadors are inspiring citizens in this collective journey towards *swachhata*.

Swachh Bharat Mission has undoubtedly received unflinching support from millions of Indians. From the rich to the poor, the young to the old, celebrities to common people, everyone has contributed her bit, thereby making a difference. There are celebrities from Bollywood, sports, and other walks of life who have spared time and energy to promote the message of sanitation. Mass media campaigns were launched, each with its messages and myth busters. The *Darwaja Band* campaign,

⁹⁷ Government of India, Swachh Bharat Mission Year End Review-2018, Ministry of Drinking Water and Sanitation, PIB, December 2019

starring Bollywood icons Amitabh Bachchan and Anushka Sharma, moved beyond access to toilets and communicated the need to use toilets, not just by women and children, but also by each member of the household.

Several audio-visual campaigns featuring messages of toilet use have resorted to the popular imagination. Many feature films (such as *Toilet Ek Prem Katha*, *Padman*, *Halka*, and *Gutar Gu*) have been produced in recent times that promote sanitation. The film *Toilet Aik Prem Katha*, inspired by the true story, highlights the country's Open Defecation issue through a love story. It tells the story of a bride's refusal to marry until her groom sets up a toilet in his house. The groom, after facing many troubles, wins his bride's love by building a toilet in the house. The main message of the movie is "no toilet, no bride." The film also faced some criticism for its portrayal of the problem. The film does not mention the diseases caused by open defecation. From its message, it seems that toilets are only for women and it is okay for men to continue to defecate in the open.⁹⁸

5.6 CONCLUSION

The sanitation sector needs to mobilize people's participation at the micro-level and relevant institutions to mobilize people's involvement at the macro level. Currently, the sanitation sector requires collaborative efforts by the government, non-governmental organizations, community-based non-profit organizations, and the corporate sector. In this complex multi-agency partnership, each agent has a different role to perform. The people's participation at all stages of the sanitation process, i.e., from definition to implementation of a sanitation policy, helps create sustainable, demand-adapted, efficient, and transparent sanitation services. Being the primary public service agency, the government has to control, regulate, and motivate non-profit and for-profit organizations to achieve maximum welfare. The various cases

⁹⁸ Water Supply Sanitation Collaboration Council, *Open Defecation Goes Mainstream in New Bollywood Love Story* (August 25, 2017). Available at: <https://www.wsscc.org/media/news-stories/open-defecation-goes-mainstream-new-bollywood-love-story>(visited on: June 19, 2020)

presented here show how the citizens can act as watchdogs, keeping in mind how national and local governments are diverting their money to sanitation projects.⁹⁹

Mahatma Gandhi used to dream of a country where no one spits or clears his nose on the road because it would infect others. Those who chew betel nuts and tobacco and spit here and there do not give any thought to others' feelings. Gandhi actively participated in cleanliness and broke all the walls of casteism. Following Gandhiji's hygiene principles, many people have done unique work in sanitation, in which Bindeshwar Pathak and Bezwada Wilson are prominent personalities. They did a remarkable job to eliminate manual scavenging and rehabilitate manual scavengers. Keeping in mind the ideology of Mahatma Gandhi and paying homage to him on his 150th birth anniversary, the government started the Swachh Bharat Mission on 2nd October 2014 to build clean and open defecation free India, which lasted till 2nd October 2019.¹⁰⁰ In 2019, the Union Cabinet, chaired by the Prime Minister, has approved the second phase of the Swachh Bharat Mission (Gramin) [SBM (G)] from 2020-21 to 2024-25. It will focus on open defecation free (ODF plus) including ODF sustainability and solid and liquid waste management (SLWM). The program will also work towards ensuring that no one stays behind and everyone uses the toilet.¹⁰¹

People's involvement has made the Swachh Bharat Mission a people's movement. Students, Swachhagrahis, civil society, corporate social responsibly, media, etc., have carried the message of 'Swachhata Hi Seva' to the masses. Swachhata Pakhwada, awareness campaigns, monitoring through swachhata Sarvekshan, and star rating for garbage-free cities are gradually bringing about behavioral change.¹⁰² Core ministries like Health, Women and Children Development, Railways, Rural Development, petroleum, Housing, and Urban Affairs are making all-out efforts to address sanitation issues. They are working on the sanitation value chain

⁹⁹ UNICEF, *Accountability for Sustainability in WASH* (2015). Available at: https://www.unicef.org/wash/files/Accountability_in_WASH_Explaining_the_Concept.pdf (visited on: May 21, 2020)

¹⁰⁰The Government of India, PM dedicates a Swachh Bharat to Bapu and the people of India (Ministry of Jal Shakti, 2019)

¹⁰¹ Cabinet approves Swachh Bharat Mission (Grameen) Phase-II (Press Information Bureau (PIB), (2020). Available at: [https://pib.gov.in/PressReleasePage.aspx?PRID=1603628#:~:text=The%20Union%20Cabinet%2C%20chaired%20by,Liquid%20Waste%20Management%20\(SLWM\).](https://pib.gov.in/PressReleasePage.aspx?PRID=1603628#:~:text=The%20Union%20Cabinet%2C%20chaired%20by,Liquid%20Waste%20Management%20(SLWM).)(visited on: June 19, 2020)

¹⁰²Swachhata- A Way of Life (editorial), *YOJANA*, November 2018.

of water supply, safe disposal and treatment of waste, and infrastructure maintenance in the sanitation sector.¹⁰³

The private and public sectors, international organizations, and research funding institutions have supported research on new approaches and innovative sanitation solutions. Nevertheless, successful uptake of resource-recovery solutions in sanitation requires discovering new drivers and enabling environments, such as efficient service and market-oriented mechanisms and comprehensive social, financial, health, and environmental impacts assessments. Therefore, the research community and other stakeholders need to build new integrated approaches based on the sustainable sanitation business model to give the country a path to ‘*Swachhata*.’

The media can spread and make widespread awareness about sanitation and its advantages and provide the right ambiance for behaviour modifications. Under the Swachh Bharat Mission, the Government of India and various state governments used all media platforms to achieve the objectives of sanitation and spread public awareness. Social media had an important role in making this campaign effective. About 90% of the people of India are aware of this campaign. It can also be said that about 70 percent believe that this initiative can help to make their city clean. Due to the media, more and more people became aware of this campaign and satisfied with the role of the media.¹⁰⁴

We can say that even though the Ministry of Drinking Water and Sanitation (in rural) and the Ministry of Urban Development (in urban) are the main implementing ministries for sanitation, this mission has become the business of all. There is no doubt about the fact that change must begin at home. People should start behavioural change towards sanitation practices from their home if they want to see their society clean. Every citizen of the country should take responsibility for himself to make this campaign a success, instead of waiting for the government.¹⁰⁵ We can say that changing mindsets is often harder than changing technology. In this swachhata mission, the Government of India emphasizes behavioral change, alongside

¹⁰³Editorial: Swachhata- A Way of Life, *YOJANA*, November 2018.

¹⁰⁴Trishu Sharma, Effective Use of Media towards Swachh Bharat Abhiyan (SBA): A Study in reference to Chhattisgarh State, vol. 9(8), *Journal of Information and Computational Science*, p340, (2019)

¹⁰⁵Pitabas Pradhan, Swachh Bharat Abhiyan and the Indian Media, vol.5, *Journal of Content, Community & Communication*, pp.51 (2017)

technological advances, as the key to adequate sanitation. Thus, Political Will, Public Policy, Investments, and Partnerships all must come together to create an enabling environment, and people's participation would power that to deliver the final assault on decades of lack of sanitation and neglect of hygiene and behaviour change regarding sanitation.

**A STUDY OF ADMINISTRATIVE RESPONSES AND
PUBLIC AWARENESS ABOUT SANITATION
IN LUCKNOW CITY**

The relationship between sanitation and health needs no explanation. Good sanitation determines the quality of life and prosperity of society. Despite this, people, as well as the government, think about sanitation issues only when its poor services affect the people's health at large. In fact, the problem of non-availability and poor quality of sanitation is present more or less across the country.¹ The state of Uttar Pradesh (U.P.) is not untouched by sanitation-related issues. Open defecation is common, especially in rural areas of the U.P. Women going for defecation in the fields are the victims of physical assault in the dark. The land and water sources are becoming dangerously polluted due to the discharge of untreated effluents from the urban centres.² To accelerate the efforts to achieve universal sanitation coverage, the Swachh Bharat Mission was launched in India on 2nd October 2014. It aimed to eliminate open defecation by building a 90 million toilets in rural India by October 2019.³

Uttar Pradesh is the rainbow land where the multi-hued Indian Culture has blossomed from times immemorial. Blessed with a variety of geographical land and many cultural diversities, Uttar Pradesh, has been the area of activity of historical heroes like - Rama, Krishna, Buddha, Mahavira, Ashoka, Harsha, Akbar, and Mahatma Gandhi. Rich and tranquil expanses of meadows, perennial rivers, dense

¹ Environmental Law Research Society (ELRS), A Concise Guide on Water Laws in Uttar Pradesh, Water Law for Non-Lawyers Series-1 (2011). Available at: http://elrs.in/content/draft_up_primer.pdf (visited on: June 13, 2020)

²*ibid*

³ Government of India, Annual Report: 2018-19 (Department of Drinking Water and Sanitation, Ministry of Jal Shakti, 2018)

forests, and fertile soil of Uttar Pradesh have contributed numerous golden chapters to the annals of Indian History.⁴ Dotted with various holy shrines and pilgrim places full of joyous festivals, it plays an important role in the politics, education, culture, industry, agriculture, and tourism of India. Garlanded by the Ganga and Yamuna. The two pious rivers of Indian mythology, Uttar Pradesh is surrounded by Bihar in the East, Madhya Pradesh in the South, Rajasthan, Delhi, Himachal Pradesh and Haryana in the west and Uttaranchal in the north and Nepal touch the northern borders of Uttar Pradesh, it assumes strategic importance for Indian defence. Its area of 2,36,286 sq. kms lies between latitude 24⁰ to 30⁰ and longitude 77⁰ to 84⁰ East.⁵



Source: www.up.gov.in

⁴Uttar Pradesh: State at a Glance. Available at: <https://up.gov.in/upstate.aspx> (visited on: December 21, 2020)

⁵Uttar Pradesh: Social Demography. Available at: <http://up.gov.in/uepecon.aspx> (visited on: June 20, 2020)

Uttar Pradesh is the most populous and fifth-largest state in the Union of India. About 16.50% of India's population lives in this state. It is a very important state in terms of population, political awareness, historical and cultural heritage, and freedom movement.⁶ From the administrative point of view, it has 18 divisions, 75 districts, 915 urban bodies, 8135 Nyay panchayats, 13 Municipal Corporations, 226 Municipal Boards, 59163 Gram Sabha, 822 Development Blocks, and 97941 populated Villages.⁷

Out of the total population of Uttar Pradesh, 22.27% people live in urban regions, and 77.73% live in rural regions.⁸ The state witnessed tremendous growth in its urban population during the last three decades. With the continuous rapid increase in population, the task of improving urban services is becoming more challenging. Environmental problems, such as air pollution, water pollution, and degradation of natural resources are addressed by local governments, while the sanitation conditions of large populations are ignored.⁹ The three most significant environmental health problems affecting a large population are contaminated water supplies, inadequate sanitation, and untreated solid waste. These problems remain a cause of serious concern for environmental pollution.

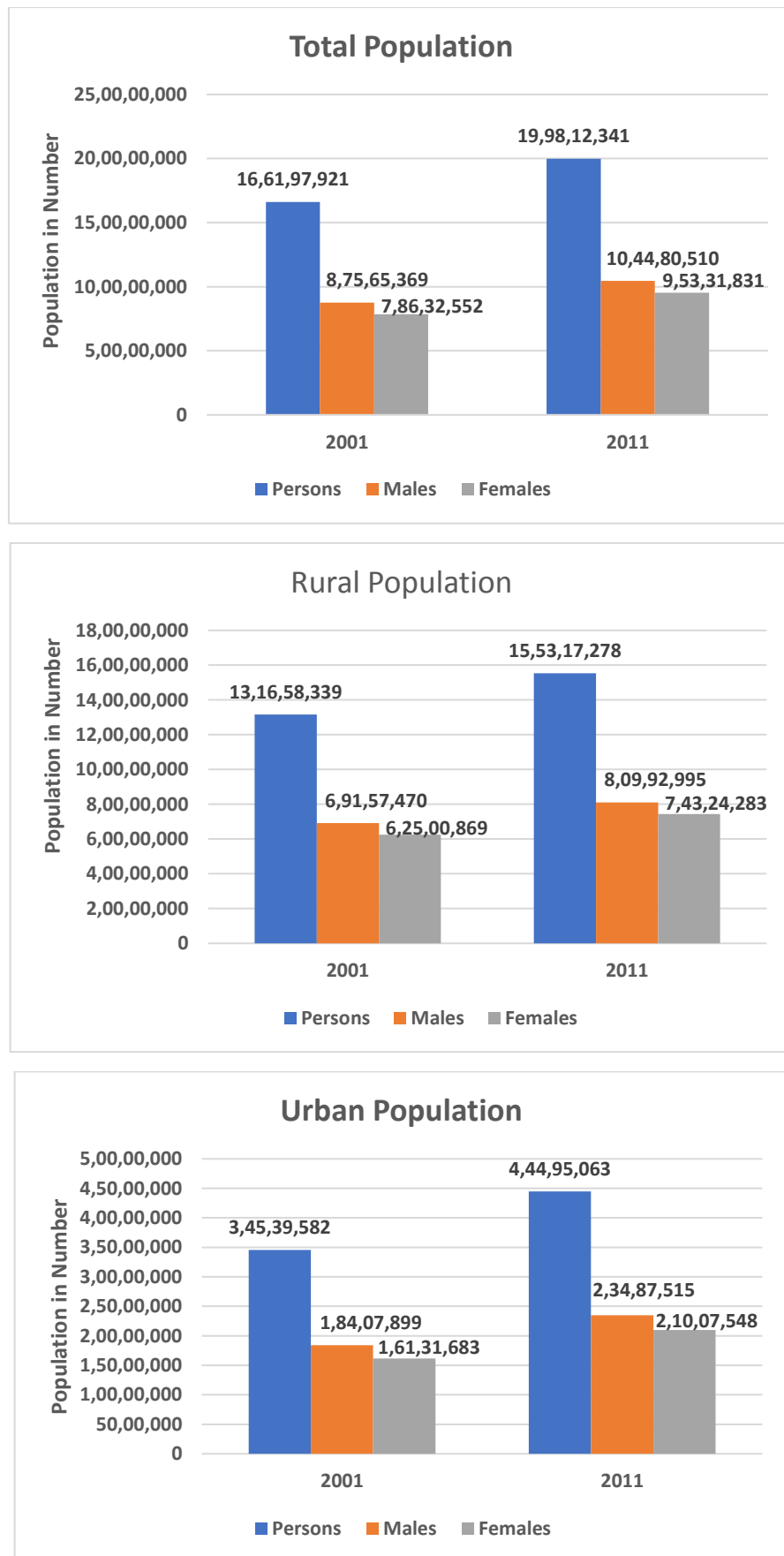
⁶Uttar Pradesh: Social Demography. Available at: <http://up.gov.in/upecon.aspx> (visited on: June 20, 2020)

⁷ *ibid*

⁸ Available at: https://censusindia.gov.in/2011census/censusinfodashboard/stock/profiles/en /IND009_Uttar%20Pradesh.pdf

⁹ Richa Varmani and Awadhesh Kumar Singh, Urban Sanitation and Hygiene Promotion in Uttar Pradesh. Available at: <http://rcueslucknow.org/reports/UNICEFWorkshopPaper.pdf> (visited on: December 17, 2019)

Figure 6.1: Population of Uttar Pradesh (Census, 2011)



Source: Census 2011(censusindia.gov.in)

As per the Constitution of India, the regulation and governance of sanitation in India are under the jurisdiction of the State Governments and the Local Government. State governments have the power to adopt laws related to sanitation. The Constitution envisages major sanitation-related responsibilities to the local governments (Panchayats, Municipalities, and Corporations) along with the state governments.¹⁰ The Urban Development Department/Urban Local Bodies (Municipal Corporation) handle the urban sanitation program, while the rural program is handled either by the Public Health Engineering Department or the Panchayati Raj/Rural Development Department.¹¹

6.1 LOCAL BODIES IN UTTAR PRADESH

The growing population and urbanization required a local governing body that can work for providing necessary community services. The 73rd and 74th Constitutional Amendment Act, 1992, paved the way for decentralization of powers and devolution of more functions and funds to enable Urban Local Bodies (ULBs) to function as institutions of self-government. At the State level, the Urban Development Department/Urban local bodies (Municipal Corporations) handle the urban sanitation program, while the rural program is handled by either the Public Health Engineering Department or the Panchayati Raj/Rural Development Department. Sanitation in urban areas is the responsibility of local bodies under Municipal Acts, Town Area Acts, etc.¹²

- **Urban Local Body in Uttar Pradesh:**

To incorporate the provisions of the 74th Constitutional Amendment, the legislature of Uttar Pradesh enacted (1994) the Uttar Pradesh Urban Local Self Government Laws (Amendment) Act, 1994.¹³

¹⁰ K. J. Joy and Sarita Bhagat (eds.), *Right to Sanitation in India: Nature, Scope and Voices from the Margins*, (Forum for Policy Dialogue on Water Conflicts in India, Pune, 2016)

¹¹ Government of India, Swachh Bharat: ANNUAL REPORT 2015-16 (Ministry of Drinking Water & Sanitation).

¹²UTTAR PRADESH : Social Demography. Available at: <http://up.gov.in/upecon.aspx> (visited on: June 20, 2020)

¹³Government of Uttar Pradesh, Annual Technical Inspection Report on Urban Local Bodies (General & Social Sector Audit, Uttar Pradesh, March, 2016)

A **Municipal Corporation** (Nagar Palika) is a local government in India that administers urban areas with a population of more than one million. In 2017, there were 14 Nagar Nigam in the state with total area 1835.44 sq km and population 1.76 crore and total employees were 46396. The **Municipal Council** (municipality, Nagar Palika, Nagar Palika Parishad) is an Urban Local Body that administers a city of population 100,000 or more. However, there are exceptions to that, as previously Nagar Palikas were constituted in urban centres with populations over 20,000, so all the urban bodies that were previously classified as Nagar Palikas even if their population was under 100,000. In 2017, there were 202 Nagar Palika Parishad in the state with total area 2020.15 sq. km and population 1.55 crore and total employees are 44283. A **Nagar Panchayat** or Notified Area Council or City Council is a form of an urban political unit in India comparable to a municipality. An urban centre with more than 11,000 and less than 25,000 inhabitants is classified as a ‘Nagar Panchayat’ There were 438 Nagar Panchayat in the state in 2017, with total area 2408.98 sq. km and population 0.72 crore and total employees are 18950.

Local bodies are vested with various functions assigned to them by the state governments. The main functions of these local bodies are to provide basic civic amenities, such as clean drinking water supply, roads/streets, drainage, sanitation, waste disposal, sewerage system, street lighting, parks, clean environment, etc., to the population, residing in the area of these urban local bodies. In the pre-independence period, the functions assigned to municipalities were broadly similar in different states. The laws of almost all the states envisage functions such as water supply, drainage, sanitation, building control, municipal roads, and street lighting, municipal markets, etc., which fall under the jurisdiction of the municipality.¹⁴ However, post-independence, there has been a constant devolution and digression of responsibilities in the area of municipal functions. Many functions were transferred to the development authorities and parastatal organizations.¹⁵

By the late 1970s, the State Level Water and Sanitation Board came into existence in Uttar Pradesh. Along with this, urban development or special authorities were also established in most of the big cities. However, over time, most of these non-

¹⁴ A Consultation Paper on *Decentralization and Municipalities*, (New Delhi, 2001). Available at: <https://legallaffairs.gov.in/sites/default/files/Decentralization%20and%20Municipalities.pdf> (visited on: September 23, 2021)

¹⁵*ibid*

municipal bodies suffered from maladies like corruption, irresponsibility, financial mismanagement, lack of accountability, political interference, etc. Some municipal bodies were also given the task of dealing with non-profit and routine tasks such as sanitation and garbage removal.¹⁶ Municipal authorities are empowered to make by-laws consistent with the Municipal Act to regulate sanitation including construction, maintenance, and control of toilets, urinals, drains, sewers, etc.¹⁷

Uttar Pradesh, being the most populous state in India, is also the state with the most urban local bodies. At present, there are a total of 707 urban local bodies in Uttar Pradesh, which includes 17 municipal corporations, 200 municipal councils, and 490 Nagar Panchayats. About 22 percent of the state's population lives in these urban local bodies.¹⁸

- **Rural Local Body in Uttar Pradesh**

Under the Constitution, Art. 40 provides to the State to take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. 73rd Constitution (Amendment) Act 1992 was brought to develop Local Self Government in the rural areas of the State for better rural administration and development.¹⁹ The Department of Panchayati Raj was created in the year 1948. The department aims at empowerment of Panchayats to levy certain taxes, manage funds, make bylaws, prepare budgets, improve the status of sanitation through various activities and implement various schemes.²⁰ The responsibility of guidance, regulation and monitoring of the functioning of Gram Panchayats which were established under the UP Panchayat Raj Act, 1947. In view of ensuring the enhanced role of local rural bodies at the intermediary and districts level, Kshetra Panchayats and Zila Panchayats were added with the enactment of UP Kshetra Panchayat and Zila Panchayat Act, 1961. Thus, according to these two State Panchayat Acts, there is a 3-

¹⁶ A Consultation Paper on *Decentralization and Municipalities*, (New Delhi, 2001). Available at: <https://legalaffairs.gov.in/sites/default/files/Decentralization%20and%20Municipalities.pdf> (visited on: September 23, 2021)

¹⁷ Urban Development Department, Government of Uttar Pradesh. Available at: <http://urbandevlopment.up.nic.in> (visited on: September 25, 2021)

¹⁸ *ibid*

¹⁹ Government of Uttar Pradesh, A Commitment to Panchayati Raj Institutions (PRIs) Department of Panchayati Raj Policies & Practices, Uttar Pradesh. Available at: <http://panchayatiraj.up.nic.in/docs/ActsRules/PR-Policy-Practices.pdf> (visited on: April 12, 2021)

²⁰ *ibid*

tier PRI system, i.e., Zila Panchayat at District Level, Kshetra Panchayat at Intermediary (Block) level, and Gram Panchayat at the Village level.²¹ According to the Panchayati Raj Department, the state has 75 Zila Panchayats (District Panchayats), 826 Kshetra Panchayats (Intermediary Panchayats) and 58,194 Gram Panchayats (Village Panchayats).²²

The Constitution has entrusted the responsibility of 29 subjects to the Gram Panchayat, through the 73rd Constitutional Amendment, out of which sanitation is an important issue. Sanitation includes personal hygiene (including menstrual hygiene), building cleaning, food hygiene, community sanitation, safe disposal of wastewater, and safe disposal of solid waste. Gram Panchayat may constitute Gram Panchayat Water Supply and Sanitation Committees (GPWSC) or the Village Water and Sanitation Committee (VWSC) to do this sanitation work. The Gram Panchayat may direct the GPWSC/VWSC to undertake the following sanitation-related works:

- Sanitation Survey
- Preparation of the Plan of action for sanitation
- Implementation of sanitation program
- Providing space for dumping yard
- To make arrangements for sweeping the streets/construction and cleaning of drains/proper disposal of solid and wastewater
- To create awareness about sanitation and hygiene among the people of the village

Gram Panchayat can make rules for sanitation and can also take penal action for non-compliance.²³

6.2 SANITATION IN UTTAR PRADESH

Uttar Pradesh, the most populous state in the country, has the largest number of dirty cities in India, due to which there is a serious and pressing need for

²¹Government of Uttar Pradesh, A Commitment to Panchayati Raj Institutions (PRIs) Department of Panchayati Raj Policies & Practices, Uttar Pradesh. Available at: <http://panchayatiraj.up.nic.in/docs/ActsRules/PR-Policy-Practices.pdf> (visited on: April 12, 2021)

²²Available at: <http://panchayatiraj.up.nic.in> (visited on: March 11, 2021)

²³ Available at: http://panchayatiraj.up.nic.in/docs/pdf/Sanitation%20in%20Gram%20Panchayat_Hindi.pdf (visited on: April 12, 2021)

prevention and solution of sanitation within the state. Improper and inadequate sanitation is a major challenge in UP. Open defecation is a common practice especially in rural parts of UP.²⁴ Most people living in villages, fringe areas, and towns are unaware about basic hygiene, sanitation, and hygiene.²⁵ Rapid urbanization has been a serious challenge, which has increased the demand for water supply and sanitation (WSS) services. New urbanized areas and semi-urban areas are already feeling the burden of population and civic amenities accordingly.²⁶ The state was in dire need of a smart solution to raise the standard of living of individuals.

As per Census 2011, in Uttar Pradesh, the percentage of households without toilet facilities was 63 percent. In rural areas, 69.3 percent of households are yet to have toilets, whereas, in urban areas, the corresponding figure was 18.6 percent.²⁷ Uttar Pradesh has come a long way to accelerate the efforts to achieve universal sanitation coverage. According to the National Annual Rural Sanitation Survey (NARSS), Round-3, in 2019-20, 85.9% rural population of Uttar Pradesh is using safe, functional & hygienic toilets and 92.7% rural population are living in Open Defecation Free (ODF) verified villages.²⁸

We often confuse toilets with sanitation. The improved sanitation facilities include a proper piped sewer system, septic tank, toilets with water, drain, and waste management.²⁹ Thus, merely building toilets is not sufficient to achieve sanitation unless it is connected to sewer and drainage systems that safely dispose of human sewage to prevent environmental pollution and deteriorating health.³⁰ Due to lack of

²⁴ A Concise Guide on Water Laws in Uttar Pradesh, Environmental Law Research Society (2011), p8. Available at: http://elrs.in/content/draft_up_primer.pdf (visited at: November 21, 2020)

²⁵ J.H. Khan, Shaghla Parveen, et al., Regional Analysis of Sanitation Facilities in Uttar Pradesh, Vol. 20(10), *IOSR Journal Of Humanities And Social Science (IOSR-JHSS)*, pp. 48-56 (2015)

²⁶ S. Mukherjee & D. Chakraborty, Urbanization and Demand for Water and Sanitation Services: An Analysis on Cross-Region Investment Requirements, vol. 16: 48, *Munich Personal RePEc Archive*, 2016.

²⁷ Government of Uttar Pradesh, U.P. Sustainable Development Goal VISION-2030 (Department of Planning, Uttar Pradesh, July 2019). Available at: <http://planning.up.nic.in/Go/SDG/VISION%20Doc%20Eng.pdf> (visited at: June 17, 2020)

²⁸ Government of India, "National Report on the National Annual Rural Sanitation Survey (NARSS), Round-3 (2019-20) (Ministry of Jal Shakti, Department of Drinking Water and Sanitation (DDWS), 2020)

²⁹ J.H. Khan, Shaghla Parveen, et al., Regional Analysis of Sanitation Facilities in Uttar Pradesh, Vol. 20(10), *IOSR Journal Of Humanities And Social Science (IOSR-JHSS)*, pp. 48-56 (2015)

³⁰ Sunita Narain, Do it differently: Toilets are not enough to achieve sanitation, India must reinvent the waste business, *The Times of India*, February 16, 2017. Available at: <https://timesofindia>.

sewer connections, many toilets are emptied directly into open drains, which is a major cause of sewage pollution. Thus, connecting the toilet to the sewer network is important because it directly transports sewage to a sewage treatment plant (STP).³¹ Uttar Pradesh is the second-largest urban sewage generating state in India, which produces 12 percent of the country's sewage. Urban areas in U.P. generate a total of 7124 million liters per day (MLD) of sewage but has the installed capacity of treatment of only 2646.84 MLD or 37.2 percent. The information provided by the U.P. Jal Nigam reveals that there are 59 sewage treatment plants (STP) in the state spread across only 20 districts out of which 57 are operational.³²

The surface drain has been the simplest system for the collection and transportation of greywater flowing out from the houses. Unplanned development and improper management of drainage system creates water logging problems.³³ The drainage system coverage ranges from 32 percent in municipal areas to 39 percent in other towns in Uttar Pradesh. According to the Swachhata Status Report, 2016, the Percentage of households who lived in dwelling houses with no drainage arrangement is 22.3 percent in rural areas and 4.5 percent in urban areas.³⁴ Considering the population pressure in urban areas, adequate drainage coverage in 652 ULB would require Rs 45,413.23 crore for the period 2015-30.³⁵ According to the NSS Report, 26.3 percent of households (Rural and Urban) in Uttar Pradesh have an underground drainage system, 12.4 percent have covered pucca, and 25.3 percent have an open pucca drainage system. 15.5 percent of households have no drainage system.³⁶

Along with poor sanitation coverage, Uttar Pradesh is also facing significant challenges in the management of solid and liquid waste, especially in urban areas.

indiatimes.com/blogs/toi-edit-page/do-it-differently-toilets-are-not-enough-to-achieve-sanitation-india-must-reinvent-the-waste-business/

³¹Sumit Chaturvedi, UP needs to treat its sewage, *India Water Portal*, September 24, 2018. Available at: <https://www.indiawaterportal.org/articles/needs-treat-its-sewage> (visited on: November 12, 2020)

³²*ibid*

³³ Available at: <http://documents1.worldbank.org/curated/en/244581468268199778/pdf/E41820v90EA0P100EMF0UP0Final0Report.pdf> (visited on: November 12, 2020)

³⁴ http://www.sulabhervis.nic.in/Database/NationalStatus_6951.aspx

³⁵ Government of Uttar Pradesh, Sustainable Development Goal: Vision 2030, (Department of Planning, Uttar Pradesh, July 2019). Available at: <http://planning.up.nic.in/Go/SDG/VISION%20Doc%20Eng.pdf> (visited on: June 17, 2020)

³⁶ Government of India, NSS 76th Report on 'Drinking Water, Sanitation, Hygiene and Housing Condition, (Ministry of Statistic and Programme Implementation, 2018). Available at: http://mospi.nic.in/sites/default/files/publication_reports/Report_584_final_0.pdf (visited on: August 24, 2020)

About 17377 tonnes per day (TPD) of solid waste is generated in the urban areas of the state, and the quantity of collected solid waste is 17329 TPD. There are 12 Municipal Solid Waste (MSW) treatment and disposal facilities operational in Uttar Pradesh, with a cumulative treatment capacity of 4615 TPD.³⁷ Only 13 percent of waste is currently scientifically processed in nine urban local bodies (ULBs). It is processed through compost-based processing plants. At present, although the collection of waste has improved among ULBs, however, segregation of solid waste at source is not being practiced satisfactorily as per the Solid Waste Management Rules, 2016.³⁸ Except for a very small number of ULBs in the state, the target of achieving 100% source segregation is still not being done in the majority of local bodies in Uttar Pradesh.³⁹ Moreover, the biggest challenge related to waste disposal is that the non-availability of land and technological options for landfill management in the state. For an effective waste management system, the state needs centralized/decentralized composting facilities as well as waste-to-energy generation facilities so that it could reduce the burden on landfills.⁴⁰

The government of Uttar Pradesh ordered that all municipal bodies of the state will have to ensure cleanliness at public toilets. It was ordered to have public meeting in all wards regarding garbage collection and disposal with residents. Municipal team should organise *Nukkad Nataks*, rallies, essay and painting competitions in schools, sensitize people about keeping their surroundings clean.⁴¹

ULBs across UP have either failed to formulate waste bye-laws or were not implementing them satisfactorily. Therefore, in September 2021, the Uttar Pradesh Cabinet approved the Uttar Pradesh Solid Waste (Management, Operation and Sanitation) Rules. The rules will soon be compulsory for households to segregate waste at source. All the waste will have to be segregated at source into three

³⁷The Report of Oversight committee constituted by Hon'ble National Green Tribunal vide order dated 21-10-2019 in O.A.No.670/2018 Atul Singh Chauhan vs MoEF & Others on status of compliance of Hon'ble National Green Tribunal related to Solid Waste Management in O.A.No.606/2018, compliance of the Solid Waste Management Rules, 2016. Available at: <http://www.indiaenvironmentportal.org.in/files/file/solid-waste-UttarPradesh-report-NGT.pdf> (visited on: January, 23, 2021)

³⁸*ibid*

³⁹*ibid*

⁴⁰ Government of Uttar Pradesh, Sustainable Development Goal: Vision 2030, (Uttar Pradesh, July 2019). Available at: <http://planning.up.nic.in/Go/SDG/VISION%20Doc%20Eng.pdf> (visited on: August 24, 2020)

⁴¹Uttar Pradesh CM Yogi Adityanath lead a mega drive in Lucknow for cleanliness of river Gomti, *India Today*, June 24, 2018

categories i.e., biodegradable, non-biodegradable and domestic. Urban local bodies will henceforth also have to implement door-to-door waste collection. A penalty will also be charged for violating the provisions of the Solid Waste Management Rules, 2016, including littering in public areas. The fine will range from Rs 100 to Rs 2500.⁴²

In 2018, the UP government had started the first of its kind ward level sanitation competition. In which a demand was made to select 12007 wards and local bodies of the state to conduct healthy competition under the Swachh Bharat Survey in 2020.⁴³ In the Sanitation Survey-2020, many cities of Uttar Pradesh have performed better in the cleanliness survey this time. Uttar Pradesh has become the highest award-winning state in the country by winning honours in various categories in 19 bodies, leaving behind other bodies of the country. In this, two municipal corporations from UP, Varanasi and Shahjahanpur got this honour. Earlier in 2019, 14 bodies and in 2018, 3 bodies from UP got this honour. In 2020, this number has increased to 19. Furthermore, the government has claimed to complete the target of 100 percent individual toilets in UP. At the same time, community toilets of about 60 thousand seats have been constructed. All the civic bodies in the state have become open defecation free.⁴⁴

Budget for Sanitation in Uttar Pradesh

Under the Swachh Bharat Mission, the share of the central government is 60 percent, and the state government bears 40 percent of the budget. In Financial Year (FY) 2016-17, 1,410 crore was released to the states by the Government of India (GoI), out of which Uttar Pradesh received only 10 percent.⁴⁵ Uttar Pradesh received 21 percent in FY 2018-19⁴⁶ and 25 percent in FY 2019-20.⁴⁷ In 2019, of the total

⁴² Available at: <https://solidwasteindia.com/new-swm-rules-in-up-segregation-at-source-compulsory/> (Visited on: September 08, 2021)

⁴³ Uttar Pradesh CM Yogi Adityanath lead a mega drive in Lucknow for cleanliness of river Gomti, *India Today*, June 24, 2018

⁴⁴ Available at: <https://hindi.news18.com/news/uttar-pradesh/lucknow-swachh-survekshan-2020-up-shows-its-strength-by-winning-19-awards-in-the-clean-survey-2020-upas-3209144.html> (visited on: August 20, 2020)

⁴⁵ Government of India, Budget Brief: Swachh Bharat Mission - Urban (SBM-U) (2017-18) vol. 9(5) (Centre for Policy Research)

⁴⁶ Government of India, Budget Brief: Swachh Bharat Mission - Urban (SBM-U) (2018-19) vol. 10(4) (Centre for Policy Research)

⁴⁷ Government of India, Budget Brief: Swachh Bharat Mission - Urban (SBM-U) (2019-20) vol. 11(7) (Centre for Policy Research)

Government of India funds released to the states, Uttar Pradesh spent 35 percent on toilets (IHHLs and CT/PTs) construction, 8 percent on solid and 1 percent on capacity building programs.⁴⁸

The government of Uttar Pradesh, in FY 2021-22, has allocated Rs. 15,000 crore to Jal Jeevan Mission (Rural) and Rs 2,000 crore to Jal Jeevan Mission (Urban).⁴⁹ Uttar Pradesh, in FY 2021-2022, has also released Rs 5,791 crore for the Swachh Bharat Mission, Rs 2,200 crore for the AMRUT scheme, and Rs 2,000 crore for the Smart Cities Mission.⁵⁰

Table 6.1: Expenditure by the Department of Drinking Water and Sanitation

Year	Expenditure (in Rs crore)	% Change in expenditure
2014-15	12,091	1.3%
2015-16	11,081	-8.4%
2016-17	16,476	48.7%
2017-18	23,939	45.3%
2018-19	18,412	-23.1%
2019-20	18,264	-0.8%
2020-21	17,024	-7%
2021-22	60,030	253%

Source: Union Budgets 2014-15 to 2021-22; PRS.

6.3 LEGISLATION, POLICIES, AND REGULATIONS RELATED TO SANITATION IN UTTAR PRADESH

The Seventy-Fourth Constitutional Amendment (1992) paved the way for the decentralization of powers, transfer, and devolution of more functions and funds to the ULBs. Before the 74th Constitutional Amendment Act, the government

⁴⁸Government of India, Budget Brief: Swachh Bharat Mission - Urban (SBM-U) (2020-21) vol. 12(10) (Centre for Policy Research)

⁴⁹Nelanshu Shukla, UP govt presents Rs 5.12 lakh crore budget for 2020-21, *India Today*, February 18, 2020.

⁵⁰Uttar Pradesh Budget Analysis 2020-21, PRS Legislative Research, 2020. Available at: <https://prsindia.org/budgets/states/uttar-pradesh-budget-analysis-2020-21> (visited on: January 14, 2021)

implemented democratic governance at the grassroots level in Urban Local Bodies (ULBs) through the Uttar Pradesh Municipal Corporation Act, 1959, and the Uttar Pradesh Municipalities Act, 1916. After the amendment, the Uttar Pradesh Local Self Government Laws (Amendment) Act, 1994 was passed by the state legislature through which The United Provinces Municipalities Act, 1916, and the Uttar Pradesh Municipal Corporation Act, 1959 have been renamed as Uttar Pradesh Nagarpalika Act, 1916 and UP Nagar Nigam Act, 1959. While the United Provinces Town Area Act, 1914, has been replaced.

Improper and inadequate sanitation is a major challenge in UP. The right to sanitation is a part of the fundamental right to life guaranteed under the Constitution. The Supreme Court has stated, on more than one occasion, that everyone has a right to sanitation under the Constitution of India. The Constitution imposes a duty on the state governments to provide sanitation facilities such as sewerage, toilets, waste management, wastewater treatment plants, etc., within the state. It further delegates the legal duty on the local bodies such as the village panchayat or municipality to provide adequate sanitation facilities to all people.⁵¹ The Supreme Court has said very clearly that the local bodies cannot run away from this legal duty.⁵²

There is no consolidated law in the state also where all the dimensions of sanitation are being put together. Instead, most of the laws, governing local bodies, include a provision on ‘water supply and sanitation,’ which *inter alia* prescribes the mandatory and/or discretionary power, duties, and functions of local authorities, to prevent public health and sanitation. Statutory powers are conferred to the state for making laws on water and sanitation. Thus, there are many other legal instruments in various areas of law in Uttar Pradesh, where sanitation is addressed in one of several issues.⁵³ Some of the policies, laws, and regulations are listed below:

⁵¹ A Municipality constituted under clause (1) of Article 243-Q of the Constitution in accordance with Part IX-A

⁵² Municipal Council Ratlam v. Vardhichand. AIR 1980 SC 1622.

⁵³ P. Cullet and L. Bhullar (eds.), ‘Sanitation Law and Policy in India: An Introduction to Basic Instruments’, (Oxford University Press, New Delhi, 2015)

- **U.P. Panchayati Raj Act, 1947**

Panchayati Raj Department (PRIs) are governed by two State Acts i.e. UP Panchayat Raj Act 1947 and UP Kshetra Panchayats and Zila Panchayat Act 1961.⁵⁴ Uttar Pradesh brought in Panchayati Raj immediately after independence through the enactment of the UP Panchayat Raj Act, 1947. This Act was enacted to establish and develop local self-government in the rural area of Uttar Pradesh and to make better provisions for village administration and its development.⁵⁵ Following the recommendations of the Balwant Rai Mehta Committee, a three-tier system of Panchayats was established through the enactment of the U.P. Kshetra Samitis and Zilla Parishads Act, 1961 (now, renamed as UP Kshetra panchayats and Zilla Panchayats Adhiniyam, 1961). Section 15 of the U.P Panchayat Raj Act 1947 and sections 32 and 33 of U.P. Kshetra Panchayats and Zilla Panchayats Act 1961, respectively provide for the devolution of functions, in conformity with Article 243-G of the Indian constitution.⁵⁶ The Gram Sabha have been given certain powers and duties to administer and control certain social, economic, political, and religious activities of the village. Certain responsibilities have also been imposed on the Gram Sabha for implementing rural development programs and schemes for the welfare of the people in the village. These Acts were passed to assist in the administration of civil and criminal justice in the rural areas, and also to effect improvements in the sanitation and other common concerns of villages.⁵⁷

Section 15 of the U.P Panchayat Raj Act 1947 provides functions of Gram Panchayat. It states that the Gram Panchayat shall promote sanitation.⁵⁸ To improve sanitation, a Gram Panchayat may, by notice, direct the owner or occupier of any land or building to improve sanitation on their land or building.⁵⁹ Moreover, the Gram

⁵⁴ Panchayati Raj Department- A Commitment to PRIs, Uttar Pradesh. Available at: http://panchayatiraj.up.nic.in/docs/ActsRules/Department_of_Panchayati_Raj_summary_sheet.pdf (July 22, 2018)

⁵⁵The U.P. Panchayat Raj Act, 1947, Preamble

⁵⁶ A Commitment to Panchayati Raj Institutions (PRIs) (Department of Panchayati Raj Policies & Practices, Uttar Pradesh). Available at: <http://panchayatiraj.up.nic.in/docs/ActsRules/PR-Policy-Practices.pdf> (July 22, 2018)

⁵⁷*ibid*

⁵⁸ The U.P Panchayat Raj Act 1947, Ss. 15, 15(xxiii)(a)

⁵⁹ The U.P Panchayat Raj Act 1947,

Section 18. Improvement of sanitation

Panchayat may levy taxes, fees, and rates for cleaning and lighting of streets to maintain sanitation.⁶⁰ The Act empowers the State Government to make rules with respect to sanitation, conservation, drainage, buildings, public roads, and water supply and prohibition of public nuisance.⁶¹

- **Uttar Pradesh Municipality Act, 1916**

The United Provinces Municipalities Act of 1916 is a landmark in the development of city government in U.P. The Act was later renamed the Uttar Pradesh Municipalities Act, 1916 after the Government of Uttar Pradesh adopted the UP Local Self-Government Laws (Amendment) Act, 1994, as established by the 74th Constitutional Amendment.

Chapter VIII of this Act provides for sanitation under the head of “Sanitation and Prevention of Diseases.” Sections 267 to 286 provides powers of the municipality related to sanitation. According to section 267, the Municipality has the power to require the owner or occupier of any land or building to close, remove, replace, clean, disinfect, or keep in good condition any toilet, urinal, water cupboard, drain, cesspool, dustbin, another container for dirt, dirty water, rubbish, or waste on his land or building. The Municipality may inspect a drain, privy, water closet, latrine, urinal, cesspool, or other receptacles for filth.⁶² The municipality may, by notice, require the

For the improvement of sanitation, a 134[Gram Panchayat] may, by notice, direct the owner or occupier of any land or building, taking into consideration his financial position and giving him reasonable time for compliance thereof

(a) to close, remove, alter, repair, cleanse, disinfect or put in order any latrine, urinal, water-closet, drain, cesspool or other receptacle for filth, sullage-water, rubbish or refuse pertaining to such land or building or to remove or alter any door or trap or construct any drain for any such latrine, urinal or water-closet which opens on to a street or drain or to shut off such latrine, urinal or water-closet by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood;

(b) to cleanse, repair, cover, fill up, drain off, deepen, or to remove water from a private well, tank, reservoir, pool, pit, depression, or excavation therein which may appear to the 134[Gram Panchayat] to be injurious to health or offensive to the neighbourhood;

(c) to close off any vegetation, undergrowth, prickly pear or scrub-jungle;

(d) to remove any dirt, dung, night-soil, manure or any noxious or offensive matter therefrom and to cleanse the land or building:

Provided that a person on whom a notice under clause (b) is served may, within 30 days of the receipt of notice, appeal to the District Medical Officer of Health against the said notice who may vary, set aside or confirm it.

⁶⁰ The U.P Panchayat Raj Act 1947, s. 37

⁶¹ *ibid*, s. 110

⁶² Uttar Pradesh Municipality Act, 1916, s. 270

owner or occupier to clean its building or land and to maintain the status quo.⁶³ If the occupier of any building or land, in contravention of any direction of the Municipality, throws any objectionable substance, rubbish, night soil or dead body in a public place or any part of the road, or in any public sewer or drain, or communicating with any public sewer throws or deposits it in any drain, he shall not be liable to a fine exceeding two hundred and fifty rupees.⁶⁴ By Section 276 a penalty has been imposed for discharging or allowing water of a sink, sewer, or cesspool or any polluted matter to flow, drain or flood, a public street or place, or into a sewer or drain without the permission in writing or infringing prescribed conditions, the owner or occupier of that land from where it flows is liable upon conviction, to a fine which may extend to two hundred and fifty rupees.⁶⁵ Further, the Municipality may, by special resolution, make bye-laws if the State Government considers that there is a need to impose bye-laws for the whole or any municipal area to maintain health, sanitation, and safety, etc., of the residents and to look after the municipal administration.⁶⁶

- **Uttar Pradesh Municipal Corporations Act, 1959**

The Act is expedient to provide for the establishment of Municipal Corporations in certain cities to ensure the better municipal government of the cities.⁶⁷ The provisions related to sanitation have been provided under Chapter XV of the Uttar Pradesh Municipal Corporations Act, 1959.⁶⁸

- **The Uttar Pradesh Water Supply and Sewerage Act, 1975**

The Uttar Pradesh Water Supply and Sewerage Act was passed in 1975⁶⁹ to form the UP Jal Nigam to take care of water supply and sanitation.⁷⁰ The Act has been

⁶³ Uttar Pradesh Municipality Act, 1916, s. 271

⁶⁴ *ibid*, s. 274

⁶⁵ Uttar Pradesh Municipality Act, 1916, s. 276

⁶⁶ *Ibid*, s. 298

The Act lays two lists of bye-laws with regards to broader heads like for example buildings, markets, slaughter houses, public safety etc. As specified under section 298 sub-section (2), the municipality may have the power of making bye-laws mentioned under list I & II

⁶⁷ Preamble of the Uttar Pradesh Municipal Corporations Act, 1959.

⁶⁸ U.P. Act No. 2 of 1959

⁶⁹ UP Act 43 of 1975 (18 June 1975)

⁷⁰ Environmental Law Research Society (ELRS), A Concise Guide on Water Laws in Uttar Pradesh, Water Law for Non-Lawyers Series – 1 (2011). Available at: http://elrs.in/content/draft_up_primer.pdf (visited on: June 13, 2020)

enacted to facilitate the establishment of corporations, authorities, and organizations for the development and regulation of water supply and sewerage services in Uttar Pradesh. According to the Act, the state government shall constitute a corporation by the name of the Uttar Pradesh Jal Nigam.⁷¹ Jal Nigam has jurisdiction over the whole of Uttar Pradesh (except the Cantonment Area).⁷² The corporation has the power to impose fines on the owner of an improper/damaged septic tank. Under the Act, it is the duty of the Jal Nigam to work with the government and local bodies to improve the sewage system. The functions of the Nigam shall be the preparation, execution, promotion, and financing of the schemes for water supply and sewerage and sewage disposal.⁷³ The Nigam, as per the directions of the State Government, shall prepare State plans for water supply, sewerage, and drainage.⁷⁴ It shall also establish State standards for water supply and sewerage services.

The Act further provides that, the state government is in the opinion that it is necessary or expedient for the improvement of water supply and sewerage service in any area, it may establish a body known as Jal Sansthan for that area.⁷⁵ The main function of Jal Sansthan shall be to manage all its affairs to provide the people of the local area with wholesome water and sewerage services.⁷⁶

- **The Uttar Pradesh Urban Sanitation Policy, 2010**

In 2010, the Director of Local Authorities, Uttar Pradesh issued the Uttar Pradesh Urban Sanitation Policy (UPUSP). The policy is inspired by the National Urban Sanitation Policy (NUSP). The UPUSP mandates the cities to establish City Sanitation Task Force (CSTF) and to elevate the consciousness about sanitation in municipal agencies, government agencies, and most importantly, amongst the people of the city.⁷⁷ The vision of UPUSP is ‘All the cities and towns become totally sanitised, healthy and liveable.’ The policy specifically highlights the importance of safe and hygienic facilities with proper disposal and treatment of sludge from on-site

⁷¹ Uttar Pradesh Water Supply and Sewerage Act, 1975. s. 3(1)

⁷² Uttar Pradesh, Jal Sansthan. Available at: <http://jn.upsdc.gov.in/> (visited on: January 24, 2021)

⁷³ Uttar Pradesh Water Supply and Sewerage Act, 1975. s. 14(i)

⁷⁴ Uttar Pradesh Water Supply and Sewerage Act, 1975. s.14(ii)

⁷⁵ *ibid*, s. 18

⁷⁶ *ibid*. s. 24 (iii)

⁷⁷ SFD Report Lucknow, India, 2020. p28. Available at: www.sfd.susana.org

installations (septic tanks, pit latrines, etc.) and proper operation and maintenance (O&M) of all sanitary facilities.⁷⁸

- **Adarsh Nagar Yojana (ANY)**

Under the purview of centrally sponsored scheme guidelines, the Uttar Pradesh government is implementing Adarsh Nagar Yojana in those ULBs which have less than one lakh population and are not covered under centrally sponsored schemes. The objectives of ANY are to provide infrastructural facilities, like safe drinking water, sewerage, drainage, solid waste management, slaughter house, road, street lighting, and other qualitative civic amenities to the urban people of transitional areas. It also emphasizes the integrated development of these smaller towns and cities. The Service Level Benchmarks (SLB) in 4 sectors are water supply, sewerage, solid waste management, and drainage, of all ULBs, are being notified yearly to monitor the improvement in benchmarks.⁷⁹

- **Uttar Pradesh State Septage Management Policy (UPSSMP) (2019 – 2023)**

Government of Uttar Pradesh proposes a holistic approach for septage management (integrated/standalone), as a way forward. The policy has been drafted while keeping in mind, the National Urban Sanitation Policy 2008, National Policy on Faecal Sludge and Septage Management 2017, Swachh Bharat Mission Guidelines, Standard Operating Procedures for Cleaning of Sewers and Septic Tank and Manual Scavengers and their Rehabilitation Act 2013. The policy highlights the current scenario that the supernatant water pollutes the drains and rivers due to a lack of regular emptying (i.e., at least 5 years) of septic tanks. The emptying of septic tanks is done by untrained private operators who discharge the septage in open field, drains and rivers. This highlights the need for septage management policy to prevent pollution and safeguard public health. The policy targets that by year 2023 there is improvement in the quality of water and protection of public health. The Policy articulates a three-pronged Septage Management (SM) Vision:

⁷⁸ Uttar Pradesh Urban Sanitation Policy, 2010. Available at: 2010https://www.indiawaterportal.org/sites/default/files/iwp2/Uttar_Pradesh_Urban_Sanitation_Policy___JNNURM__2010_.pdf (Visited on: August 29, 2020)

⁷⁹Government of Uttar Pradesh, U.P.-Sustainable Development Goal VISION 2030 (Department of Planning, July 2019) p262. Available at: <http://planning.up.nic.in/Go/SDG/VISION%20Doc%20Eng.pdf> (visited at: June 17, 2020)

- a) by end of 2019, all preparatory activities of realizing SM target under a sector regulation is completed,
- b) by end of 2021, SM is mainstreamed in all Urban Local Bodies (ULBs) and all Nagar Nigams (NNs) & Nagar Palika Parishads (NPPs) have significantly moved forward towards SM and,
- c) by end of 2023, all ULBs have implemented SM solutions in an inclusive manner empowering all stakeholders in the process.

This policy is essential for the state in order to achieve ODF++. The main objectives of septage management policy include addressing the needs of the urban poor and those desirous for on-site sanitation services and reduction in the pollution load through treatment of 5558 MLD of wastewater and 13.7 MLD of Septage.⁸⁰

- **Atal Mission for Rejuvenation and Urban Transformation (AMRUT)**

The government of Uttar Pradesh is working under the central flagship program, **Atal Mission for Rejuvenation and Urban Transformation (AMRUT)**, launched in June 2015. The Mission aims at ensuring universal coverage of drinking water supply and substantial improvement in coverage and treatment capacities of sewerage and septage, along with stormwater drainage, non-motorized urban transport, and green spaces & parks. The mission covers 500 Indian cities.⁸¹ The 61 cities of Uttar Pradesh covered under AMRUT, which includes 14 Nagar Nigam/Municipal Corporation and 47 Nagar Palika Parishads, later NPP Ayodhya also included in to list so now there are 61 AMRUT cities. The total outlay for AMRUT is Rs. 50,000 crore for five years from FY 2015-16 to FY 2019-20. It was proposed that a huge allocation of fund would be grant by the Apex Committee of AMRUT under the State Annual Action Plans (SAAP), prepared by the states. SAAP (State Annual Action Plans) is a consolidated plan of all the city level SLIPs (Service

⁸⁰ Government of Uttar Pradesh, Uttar Pradesh issues 'State Septage Management Policy' (2019-2023), (Department of Urban Development, 2019)

⁸¹ Government of Uttar Pradesh, Final 3rd State Annual Action Plan (3rd SAAP) for FY: 2017-18 to 2019-2020 of Uttar Pradesh under Atal Mission for Rejuvenation and Urban Transformation (AMRUT) (Urban Development Department, 2017), p.20

Level Improvement Plan) of all proposed AMRUT cities in the respective states. The SAAP size of Uttar Pradesh for FY 2017-20 was Rs 4293.60 Cr.⁸²

In Uttar Pradesh, 87 per cent of households in these 61 AMRUT cities are said to be having individual household toilets as against 69 per cent for urban India. Availability of Latrines is highest in Allahabad (98.21%) and lowest in Firozabad (83.24%). Collection efficiency is highest in Allahabad (95%) and Ghaziabad (94.71%). Regarding coverage of sewerage network in Municipal Corporations, the highest coverage of sewerage is in Ghaziabad with 83.82% and lowest is in Aligarh with 3.54% sewerage coverage. Nagar Nigam Jhansi and Moradabad have no sewerage network. Among Nagar Palika Parishads the sewerage network ranges from 30% to 0.05%. In more than 34 AMRUT cities there is no sewerage network. These cities have only Septage. According to the State Annual Action Plan 2017-20, most cities have reported more than 80 percent coverage of latrines, but out of the 60 AMRUT cities, 34 have reported zero efficiencies regarding collection and treatment of sewage.⁸³ Under AMRUT plan Focus will also be on expanding sewerage network coverage by 2019-20. For this purpose, under SAAP for 2015-16, the Uttar Pradesh government has proposed an investment of Rs 352 crore in Ghaziabad to augment further water supply and Rs 307 crore for sewerage network services, the highest among all 60 mission cities. This is followed by Rs 305 crore for Lucknow, Rs 223 crore for Jhansi, Rs 200 crore for Kanpur, Rs 190 crore for Allahabad, Rs 180 crore each for Varanasi and Modinagar, Rs 140 crore for Mirzapur, Rs 125 crore for Meerut, Rs 109 crore for Moradabad, Rs 107 crore for Bulandshahar, Rs 98 crore for Ghazipur, Rs 80 crore for Saharanpur and Rs 65 crore for Raibareilly.⁸⁴

- **Smart City Mission**

Smart City Mission is another central flagship program, launched in 2015. It is a holistic city rejuvenation program to transform 100 Indian cities by 2019-20. These smart cities will have all the modern facilities, which are required to upgrade the

⁸²Government of Uttar Pradesh, Final 3rd State Annual Action Plan (3rd SAAP) for FY: 2017-18 To FY 2019-20 of Uttar Pradesh under Atal Mission For Rejuvenation And Urban Transformation (AMRUT) (State Mission Directorate (AMRT), Uttar Pradesh, 2017)

⁸³Government of Uttar Pradesh, Final 3rd State Annual Action Plan (3rd SAAP) for FY: 2017-18 To FY 2019-20 of Uttar Pradesh under Atal Mission For Rejuvenation And Urban Transformation (AMRUT) (State Mission Directorate (AMRT), Uttar Pradesh, 2017)

⁸⁴ Editorial: Uttar Pradesh's Rs 3,287 crore AMRUT plan to improve water supply, sewerage, *The Economic Times*, December 2015.

standard of living of the mass peoples. The objective of the Smart Cities Mission is to promote cities that provide core infrastructure and give a decent quality of life to their citizens, a clean and sustainable environment or to provide better basic facilities to the citizens of the country. The conceptualisation of Smart City, varies from city to city and country to country, depending on the level of development, willingness to change and reform, resources and aspirations of the city residents. Under the mission, Uttar Pradesh was entitled to have 13 of its cities developed as smart cities. These cities are Meerut, Moradabad, Aligarh, Saharanpur, Bareilly, Jhansi, Kanpur, Allahabad, Varanasi, Lucknow, Ghaziabad, Agra, and Rampur.⁸⁵

Keeping in mind the benefits of population, development of the city and solving various infrastructure & social issues happening in the metropolis, Lucknow Municipal Corporation has been formed as an essential government body whose main motive is betterment of populace and municipal activities of the city. As per the Government of India guidelines, Lucknow Municipal Corporation (LMC) has formed a Special Purpose Vehicle (SPV) as Lucknow Smart City Limited. For the implementation of projects under the smart city mission for the city of Lucknow. This SPV shall carry end to end responsibility for vendor selection, implementation, and operationalization of various smart city projects.⁸⁶

- **Uttar Pradesh Municipal Solid Waste (Management & Handling) and Sanitation Rules, 2019**

In exercise of powers conferred under Section 420(1) of the Uttar Pradesh Municipal Corporation Act 1959, read with section mandated under section 114(3),(4) and (5) and under section 296(2)(b) of the Uttar Pradesh Municipalities Act 1916, the Government of Uttar Pradesh hereby notifies to give effect to the Municipal Solid Waste (Management & Handling) and Sanitation in area of Urban Local Bodies in State of Uttar Pradesh. These rules shall be applicable within the territorial limits of Urban Local Bodies (hereinafter referred to as ULB) of the State of Uttar Pradesh, to every generator of municipal solid waste and to every premise

⁸⁵Virendra Singh Rawat, Know Your Smart City: Uttar Pradesh, *Business Standard*, Lucknow, June 2016.

⁸⁶Available at: <https://up.mygov.in/en/group/smart-city-mission> (Visited on: June 17, 2020)

under the ownership or occupation of any person within the limits of the Urban Local Bodies within the State of Uttar Pradesh.⁸⁷

The rules defined sanitation that “sanitation” means the promotion of hygiene and the prevention of disease and other causes of ill health related to environmental factors. They further provided the duty of stakeholders regarding segregate waste, Collection and Delivery of Dry and Wet Waste, Transportation of Solid Waste, Processing of Biodegradable Waste or Wet Waste & Non-Biodegradable Waste or Dry Waste, street sweeping, etc.

Chapter XI of the Rules provides prohibitions and offences. It prohibits:

- Littering any waste whether solid, semi solid, liquid or solid including sewage and wastewater in Public place.
- Pollution by throwing any type of waste into any type of water body (natural or man-made unless specified for the purpose).
- Littering from vehicles either moving or parked.
- Disposal of waste in drain.
- Litter by pets while walking on the roads.
- Disposal by burning of any type of solid waste at roadsides, or at any private or public property.

Chapter XII provides penalty and spot fine. It says that whoever contravenes any of the provisions of these rules or fails to comply with the requirements made under any of these rules shall be punished with a fine as mentioned in Schedule-III appended to these rules. It further says that the fine or penalty mentioned in Schedule - III shall stand automatically increased by 5% per year with effect from 1st April of each successive year.

- **Uttar Pradesh Solid Waste (Management, Operation and Sanitation) Rules, 2021**

In November 2021, the Uttar Pradesh cabinet have given nod to the Uttar Pradesh Solid Waste (Management, Operation and Sanitation) Rules, 2021. This bye-laws has been made by the Government of Uttar Pradesh to implement the provisions of the Central Government's Solid Waste Management Rules 2016. The bye-laws

⁸⁷ Available at: <http://localbodies.up.nic.in/pdf/Draft%20Uttar%20Pradesh%20SWM%20Rules%202019.pdf> (visited on: November 5, 2020)

were essential for the implementation of the Rules 2016, but neither the ULBs prepared these bye-laws nor were implementing them satisfactorily. As a result, the purpose of the Solid Waste Management Rules 2016 were being defeated and no sanitation was being maintained.⁸⁸

The Uttar Pradesh Solid Waste (Management, Operation and Sanitation) Rules, 2021 has been formulated to make compulsory for households to segregate waste at source and for urban local bodies to implement door-to-door waste collection. All the waste will have to be segregated at source into three categories i.e., biodegradable, non-biodegradable and domestic. Thereafter, it will have to be deposited in different bins as per their category. Waste like sanitary pads and diapers will have to be disposed of as per directions of the specific local body. The rules will also be implemented in small towns from municipal corporations to nagar panchayat.

The new rules also set penalty for violating the provisions of the Solid Waste Management Rules 2016, including littering in public areas, making pets defecating in public places and throwing construction waste on the roadside. The state government has decided to impose a fine of 500 to 2000 on those who spread filth, by implementing a new system to keep the cities clean and to dispose of the garbage. Pet defecating in a public place will have to be picked up immediately, failing which he may be fined up to 500 rupees. The right to fix user charges for waste management has been left to the urban bodies.⁸⁹

Table 6.2: Penalty for violating provisions Solid Waste Management Rules, 2016

Offence	Fine in Rs. for large ULB	Small ULB	Nagar Palika	Nagar Panchayat
Throwing waste from vehicle	Rs. 1,000	Rs. 750	Rs. 500	Rs. 350
Littering in public place	Rs. 500	Rs. 400	Rs. 300	Rs. 200
Littering around school/hospital	Rs. 750	Rs. 500	Rs. 400	Rs. 300
Burning of waste	Rs. 2000	Rs. 1500	Rs. 1200	Rs. 1000
Defecation by animal	Rs. 500	Rs. 300	Rs. 200	Rs. 100
Throwing construction waste on side of road	Rs. 3000	Rs. 2500	Rs. 1500	Rs. 1000
Illegal connection with sewer line	Rs. 500	Rs. 300	Rs. 200	Rs. 100
Choking drains	Rs. 500	Rs. 300	Rs. 200	Rs. 100

Source: Times of India, November, 2021

⁸⁸ Neha Lalchandani, Soon, Waste Segregation to be must for households, *The Times of India*, September 3, 2021

⁸⁹ *ibid*

Residential premises, Resident Welfare Associations and others where large amount of waste is generated, they will have to keep separate dustbins. As far as possible the processing and disposal of wet waste with composting or bi-methanization techniques will have to be done by the institutions and establishments on their own premises. Throwing of garbage in places accessible to animals will be prohibited. The people, institutions, offices and industries concerned will have to dispose of it on their own at the places where waste is generated in large quantities.

6.4 LUCKNOW

6.4.1 General Introduction

Lucknow is the capital of Uttar Pradesh, also the administrative headquarters of Lucknow District and Lucknow Division. It is situated about 500 km southeast of New Delhi in the heart of the state. It is one of the oldest cities in India. It is the largest and most developed city in North India after Delhi. Before the 2001 census, it was the capital town of Uttar Pradesh & Uttaranchal. It is popularly known as the ‘City of Nawabs,’ the ‘Golden City of the East,’ ‘Shiraz-e-Hind,’ and ‘Constantinople of India.’⁹⁰ Lucknow has always been a multicultural city that flourished as a North Indian cultural and artistic hub and Nawabs’ seat of power in the 18th and 19th centuries. It continues to be an important centre of governance, administration, education, commerce, aerospace, finance, pharmaceuticals, technology, design, culture, tourism, music, and poetry. Courtesy, manners, beautiful gardens, poetry, music, and fine cuisine patronized by the city’s Persian-loving Shia Nawabs are famous among students of Indian and South Asian culture and history. It is situated along the banks of the River Gomti. It is the fourteenth most populous city and the twelfth most populous urban agglomeration in India.⁹¹

⁹⁰ Final Report, Revised Lucknow Development Plan, Lucknow City- 2040, vol.1 (SENES Consultants India Pvt. Ltd.), January 2015. Available at: <https://lmc.up.nic.in/pdf/Final%20CDP%20-%20Volume%20I.pdf> (Visited on: July 21, 2019)

⁹¹ Government of India, Slum Free City Plan of Action – Lucknow (Regional Centre for Urban and Environmental Studies, Ministry of Urban Development)

MAP OF LUCKNOW



Source: google.com

6.4.2 Brief History of the City: Lucknow

A lot of mysteries and old folk songs are found in the history of Lucknow. The city's name is possibly derived from Lakshman, the younger brother of Lord Rama, who was of the Kshatriya clan of Suryavanshi. Laxman founded the city of Lucknow near Ayodhya, the capital of the kingdom of Rama. It is traditionally accepted, though, no such recorded evidence is available supporting this theory. Some scholars believe that the city was named after a milkman (Ahir) named Lakhana, who became rich due to the spiritual blessing of a Muslim saint. But there are no historical records that corroborate these theories. Its original name was Lakshmanpuri, then Lakhanpur and Lakhanawati before assuming the present name as Lucknow.⁹²

Lucknow has witnessed many important events in 'Indian History.' Various clans and dynasties have ruled this region at different times. Saiyed Salar Masud is said to be the first Muslim who invaded this region. During 1031-1033 A.D., he made Satrikh (in Barabanki district) his headquarters. Bhars, Paris, and Rajputs also ruled this region. Later on, at the beginning of the 13th century, Muslims settled in the district. The early sultans of Delhi annexed Avadh to their kingdom, and after that, Lucknow continued to be under the sultan of Delhi. However, it gained significant prominence during the times of Tuglaqs. Sin-ul-Mulk, son of Mahru, was appointed the Governor of Avadh, Zafrabad, and Alakhnau (Lucknow). Lucknow came under the rule of Khwaja Jahan of the Sharki dynasty of Jaunpur in 1934. After the fall of the Sharki dynasty of Jaunpur, Lucknow was annexed again with the kingdom of Lodhi Sultans of Delhi.

During Akbar's regime, Lucknow got more important for its developmental activities, which continued even in Jahangir's reign. Lucknow formed a part of '**Suba of Avadh**' in Jahangir's reign. It is said that Aurangzeb also visited Lucknow on his way back from Ayodhya to Delhi and built a mosque on Lakshman Tila. After Mughals came under the local nawabs of Awadh. During the year 1720, the great Mughal emperors began to appoint Nawabs to ensure smooth administration in the province. In 1732, Mohammad Amir Saadat Khan was appointed as the viceroyalty of Awadh, in which Lucknow was a major province. Under the rule of the Nawabs, Lucknow flourished like never before. After 1755, Lucknow grew by leaps and

⁹² Available at: https://censusindia.gov.in/2011census/dchb/DCHB_A/09/0926_PART_A_DCHB_LUCKNOW.pdf (visited on: July 17,2020)

bounds under the rule of the fourth Nawab Asaf-ud-Daula. Asaf-ud-Daula, the fourth Nawab of Awadh, shifted his capital from Faizabad to Lucknow. Since then, the Nawabi heritage of Lucknow has arrived. Wazid Ali Sah, who was eventually destined to be the last ruler of Avadh, ascended to the throne of Avadh in 1847. Under the rule of the Nawabs, Lucknow flourished in every aspect, which includes poetry, dance, music, and the other finer aspects of the lifestyle of Lucknow.⁹³

Nawab Wazid Ali Sah was a weak king and unable to face a threat passed by the British. Consequently, the British speeded up their efforts to take Avadh in their grip. Gradually it passed on to the hands of East India Company and finally to the Britishers. Thus, the Avadh came under the rule of the East India Company in 1856. After that, the last king of Avadh left Avadh for Calcutta on the 14th of March 1856 and died there in 1887.⁹⁴

After the Britishers came to India, Lucknow was given the status of administrative capital. There were many uprisings during the British rule by Indian radicals, and many ghastly incidents left Lucknow with bad memories. Lucknow was the main center of India's first mutiny for freedom in 1857. The forces of Avadh fought the battle under the leadership of Begum Hazarat Mahal, and the forces of Rajas and Nawabs revolted not only in Lucknow but at other places as well. After the 1857 rebellion, the city also had big participation in the Indian independence movement and finally emerged as an important city of north India. Many other important events had also taken place in Lucknow. In 1916, Lucknow was the venue of the Indian National Congress and Muslim League session. Both the parties' leader sorted out their difference and chalked out a common program for political reforms. This is prominently known as the Lucknow Pact. During the Non-cooperation movement of 1920-21, the people of Avadh took an active part by organizing a boycott of foreign goods, picketing liquor shops, and boycotting schools and colleges.

Mahatma Gandhi himself visited Lucknow city on 20th October 1920. In those days, prominent political figures were Ganga Prasad Verma, A.P. Sen, Rai Rajeshwar Bali, Jagat Narayan, and others. On 9th August 1925, the famous Kakori Train

⁹³ Lucknow History. Available at: <http://www.lucknow.org.uk/history.html> (visited on: November 12, 2020)

⁹⁴ A.K. Singh and S.S.A. Jafri, 'Lucknow: From Tradition to Modernity', 5(2), *History and Sociology of South Asia*, pp.143-164,(2011)

Dacoity (known as the 'Kakori case') took place. The 49th session of the India National Congress was held at Lucknow in 1936 under the presidentship of Pandit Jawaharlal Nehru. The people of Lucknow participated in Quit India Movement in 1942 on a large scale. Thus, Lucknow has been the main center of political activities during India's freedom struggle. It is also known for social and cultural harmony, religious tolerance, and Hindu -Muslim unity.

However, after independence, Lucknow was declared the capital of Uttar Pradesh by the Government of India. Since then, it has progressed beautifully, merging the past skilfully with the present.

6.4.3 Geographical Location of Lucknow

The location of Lucknow is in the state of Uttar Pradesh. Geographically, the district lies at 26°85' North latitude, 80°95' East longitude, and approximately 123 meters (404 ft.) above sea level. The total area of the district is 2528.0 Sq. Km. The rural area covers 2057.3 Sq. Km. and urban recorded 470.7 Sq. Km. Lucknow is located in the great Gangetic plain center and has many towns and villages, such as the Kakori, Malihabad, Gosainganj, Mohanlal Ganj, Itaunja, Chinhath, etc. Lucknow is bounded by the district of Barabanki on the east and the district of Unnao on the west. The south side is bounded by the district of Raebareli, while Hardoi and Sitapur districts are found on the north.

Lucknow sits on the north-western shore of the Gomti River. The chief geographical feature of the city is River Gomti which divides the city into Trans-Gomti, and Cis-Gomti regions. Apart from Gomti, Sai and their tributaries are other surface water sources. The network of the Sarda Canal system and its distributaries also partly serves as the surface water potential. Gomti River is the major source of the water supply to Lucknow city.⁹⁵ Some of the tributaries of this river are the Kukrail, Loni, and Beta. The climate in the district is characterized as a humid subtropical climate.⁹⁶ Lucknow is located in the Agro-climatic zone V, and features on the central plain region. The region receives on average 979 mm of rainfall. The climate ranges from dry sub-humid to semi-arid and the soil is alluvium calcareous

⁹⁵ Final Report, Revised Lucknow Development Plan, Lucknow City- 2040, vol.1 (SENES Consultants India Pvt. Ltd.), January 2015. Available at: <https://lmc.up.nic.in/pdf/Final%20CDP%20-%20Volume%20I.pdf> (Visited on: July 21, 2019)

⁹⁶ Lucknow. Available at: <https://lucknow.me/geography.html> (visited on: December 11, 2020)

sandy loam. Lucknow is accessible from every part of India through air, rail, and road. Lucknow's Amausi airport is an international airport and is the 13th online station for Air India.⁹⁷

6.4.4 Administrative Setup of Lucknow

Lucknow is the central part of the State. The seat of state administration and district headquarters is at Lucknow. The district is administratively divided into 05 Tahsils, namely Malihabad, Lucknow, Bakshi Ka Talab, Sarojini Nagar, and Mohanlalganj. To implement and monitor the development scheme, Lucknow is divided into 08 Development Blocks, namely Mal, Malihabad, Bakshi-Ka-Talab, Chinhat, Kakori, Sarojini Nagar, Gosainganj, and Mohanlalganj. These 08 development blocks are further subdivided into 110 administrative wards. In other words, the city is divided into 8 administrative zones and 110 wards. Lucknow district is subdivided into eight Nagar panchayat, one cantonment board, and one municipal corporation.

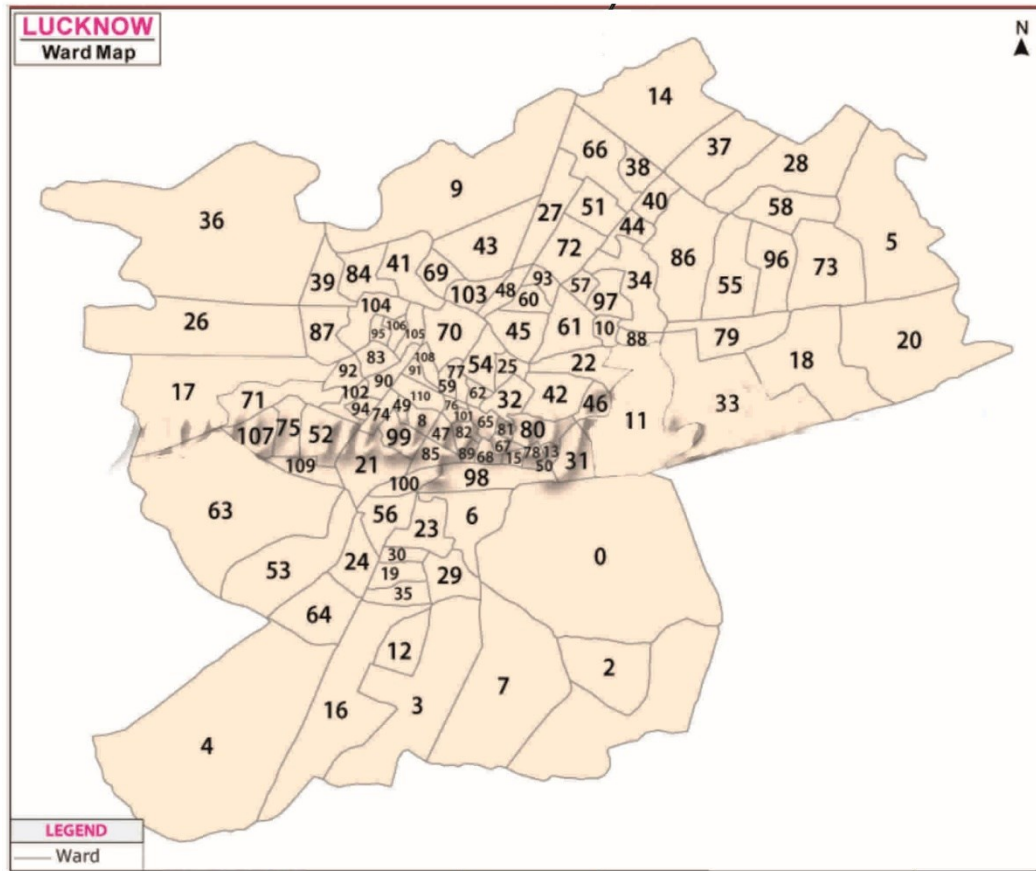
Table 6.3: Zone wise Ward Distribution

Zones	Ward numbers
Zone 1	21,24,27,33,42,44,55,66,78,84,88,92,99,102
Zone 2	1,10,18,34,46,70,71,74,81,83,104,105
Zone 3	16,32,40,43,51,54,58,59,62,65,67,72,73,75,80,94,98,106,109
Zone 4	23,35,41,45,49,61,69,96
Zone 5	4,9,19,22,29,36,39,47,48,60
Zone 6	11,13,15,17,20,25,37,76,79,82,87,89,90,93,95,97,100,101,103,107,108,110
Zone 7	7,8,26,31,52,53,57,63,68,77,85,86,91
Zone 8	2,3,5,6,12,14,28,30,38,50,56,64

Source: Lucknow Municipal Corporation

⁹⁷ R.K. Thukral, 'Key Socio-economic Data of Lucknow District, Uttar Pradesh' (Datenet India Pvt. Ltd., January 2018) p5

WARD MAP (LUCKNOW)



Previously, the number of zones in Lucknow was 6, but in 2018, Zone-7 and Zone-8 were added, after which the number of zones in Lucknow increased to 8. There are 12 wards in zone-7 and 7 wards in zone-8. Of the 12 wards included in zone number seven, Shankarpurwa First and Second Ward, Lohia Nagar Ward, Lal Bahadur Shastri First, and Second Ward, Babu Jagjivan Ram Ward, Indira Priyadarshini Ward, Ismail Ganj I and Second Ward, Shaheed Bhagat Singh Ward and Indira City wards are included. Shankarpurwa First and Second Ward and Lohiya Nagar Ward have been moved from Zone-3 and included in Zone-7. Seven wards included in Zone-8 have been removed from Zone-5 and included in this ward. Zone-8 included Ibrahimpur ward, Kharika ward, Shardanagar ward, Vidyavati I and II ward, Hind Nagar, Raja Bijli Passi.⁹⁸ There are 2 Lok Sabha constituencies and 9 Assembly constituencies.⁹⁹ There are 961 Villages and 540 Gram Panchayats with

⁹⁸ Available at: <https://www.bhaskar.com/news/UP-LUCK-two-new-zones-in-lucknow-municipal-corporation-5100252-PHO.html> (visited on: July 21, 2020)

⁹⁹ R.K. Thukral, 'Key Socio-economic Data of Lucknow District, Uttar Pradesh' (Data net India Pvt. Ltd., January 2018) p5.

803 inhabited villages and 04 uninhabited villages in the district.¹⁰⁰ Mohan Lal Ganj tahsil has the highest number of inhabited villages (229), while Malihabad and Bakshi Ka Talab each tahsil has the lowest number (185). In the urban area, there are ten statutory Towns and 02 Census Towns. Statutory Towns comprises 01 Nagar Nigam (Municipal Corporation), 08 Nagar Panchayats, and 01 cantonment Board.

6.4.5 Demography

Lucknow is the fourth largest district of Uttar Pradesh in terms of population, and in terms of the area, it stands at 51st rank in the state.¹⁰¹ The total population of the city as per census 2011 is 2,817,105, while as per Lucknow Nagar Nigam, in 2019 the population was 3,391,208 with 1,765,632 males and 1,625,576 females. The total number of households in the city is 557,130 and the average household size is 6.09.¹⁰²

Table 6.4: Population Increase of Lucknow City

Census Year	Population
1971	774,644
1981	947,990
1991	1,619,115
2001	2,185,927
2011	2,817,105
2019*	3,391,208

*Source: Census of India, 2011, *Lucknow Nagar Nigam, 2019*

The district has a population density of 1,816 persons per sq. km. which is much more than the state's average of 829 persons per sq. km. The sex ratio in the urban region of Lucknow district is 923 as per 2011 census data. This child population figure is 10.66 % of the total urban population. Lucknow city has the highest literacy rate of 82.50%, of which 85.60 % of males (1,208,784 people) and 77.93 % females (1,017,619 people) are literates.¹⁰³

¹⁰⁰ Available at: <https://lucknow.nic.in/> (visited on January 11, 2019)

¹⁰¹ Census of India, 2011. Available at <https://censusindia.gov.in>(visited on January 11, 2019)

¹⁰² Lucknow Nagar Nigam (LNN), 2019.

¹⁰³ Census of India, 2011. Available at: <https://censusindia.gov.in>

Ward wise Population Distribution:

The distribution of the population in Lucknow has been examined based on the population of the ward. Lucknow Municipal Corporation (LMC) has is divided into Eight Zones and further subdivided into 110 administrative wards. A ward is a local authority area, typically used for electoral purposes where elections are held every 5 years. The size of the wards varies a lot in the city. The wards areas towards the inner city side are small, but the ward area increases towards the periphery. Ward 21 has the highest population, i.e., 69,000, while Ward 31 has the lowest population, i.e., 11000. The average population density of wards in LMC is 240 pph. Wards in the core city area have a higher density than the wards in the peripheral area. Ward numbers 46, 79, 89, 90, 94, 107 have the highest density, which is more than 800 pph, whereas ward numbers 4, 17, 19, 20, 25, 40, and 47 have the least density less than 30 pph.¹⁰⁴

Table 6.5: Lucknow at a Glance

City	Lucknow
Government	Municipal Corporation
Urban Agglomeration	Lucknow Metropolitan
Area	2528 sq.km
City Population	4589838
Proportion to Uttar Pradesh Population	2.30%
Density	1,800/km ²
Male population	2394476
Female Population	2195362
Urban Population	66.21 %
Rural Population	33.79 %
Average Literacy	77.29%
Male Literacy	82.56%
Female Literacy	71.54%
Tehsil	5
Block	8
Wards	110
Police Station	43

Source: Census 2011

¹⁰⁴ Final Report, Revised Lucknow Development Plan, Lucknow City- 2040, vol.1 (SENES Consultants India Pvt. Ltd.), January 2015. Available at: <https://lmc.up.nic.in/pdf/Final%20CDP%20-%20Volume%20I.pdf> (Visited on: July 21, 2019)

6.5 STATUS OF EXISTING INFRASTRUCTURE AND COVERAGE OF SANITATION IN LUCKNOW CITY

Access to basic amenities such as safe drinking water and sanitation facilities is not only an important measure of the socio-economic status of the household but also a fundamental element to the health of the people. Thus, increased sanitation coverage is directly linked to the improvement of health status. The increasing urban population has changed the urban morphology of the city. The urban area of Lucknow is expanding, but the facilities are not increasing as per the requirement. The increasing desire to live in the capital has given rise to numerous unplanned colonies in the city. Due to un-planned colonies, demand for infrastructure facilities increased. According to the need, there is a limited budget constraint in development. The situation is that 40 percent of the areas have no access to toilets, sewer, and drinking water pipes, and work is going on with the jugaad system.¹⁰⁵

Urban local bodies have a crucial role to play in urban development and managing local affairs. They have to provide and maintain basic infrastructure for civic services like sanitation, health, drainage, drinking water, sewerage, lighting, etc., and the related supplementary services. The Municipalities Act 1916, and Municipal Corporation Act of 1959 of Uttar Pradesh entrust the urban local bodies with the obligatory functions of the conservancy, cleaning, and scavenging work. In Lucknow city, the sanitation part is looked after by the Lucknow Municipal Corporation (LMC). Till the year 1884, Lucknow was known as Municipal Committee, however, in the same year, it was given the name of Municipal Board and continued working till 1959. Lucknow Nagar Mahapalika was constituted in the year 1959 under Uttar Pradesh Nagar Mahapalika Act 1959. Under the 74th Constitutional Amendment Act, Lucknow Nagar Mahapalika was again reconstituted and given the status of Municipal Corporation.¹⁰⁶ According to the record, LMC has 10,000 sanitary workers. Of this, 6,000 are permanent and 4000 are on contract.¹⁰⁷

¹⁰⁵ Rashmi Tiwari and Sanatan Nayak, Drinking Water and Sanitation in Uttar Pradesh: A Regional Analysis, *Journal of Rural Development*, Vol. 32, No. (1) pp. 61 - 74

¹⁰⁶ Final Report, Revised Lucknow Development Plan, Lucknow City- 2040, vol.1 (SENES Consultants India Pvt. Ltd.), January 2015. Available at: <https://lmc.up.nic.in/pdf/Final%20CDP%20-%20Volume%20I.pdf> (Visited on: July 21, 2019)

¹⁰⁷ Lucknow Municipal Corporation to hire 1k sanitary workers, *The Times of India*, March 21, 2020. Available at: <https://timesofindia.indiatimes.com/city/lucknow/lucknow-municipal-corporation-to-hire-1k-sanitary-workers/articleshow/74742064.cms> (Visited on: May 12, 2020)

6.5.1 Household Waste in Lucknow city

Lucknow has been battling with waste management, sanitation, and cleanliness for a long time. The cleanliness drive has brought about many major changes in the city, but the set targets have not been achieved. In the city, the waste generated from various sources such as residential, street sweeping, garden, park, offices, shopping complexes, and households is collected separately. Intending to change the sanitation landscape in the city, Lucknow Municipal Corporation has adopted novel approaches like garbage collection vehicles from door to door and a state-of-the-art new manual scavenging robot. Timely collection of waste from every household is important to keep the city clean. According to the LMC record, there are total 5.48 lakh household in the city, but waste is collected only from 2.5 lakh houses.¹⁰⁸

Like the Swachh Bharat Mission, the UP government insisted on door-to-door garbage collection. After which, a cleanliness drive was carried out in every small and big locality and colonies of Lucknow city. But, outside the same colonies, a huge amount of garbage is also seen on the side of the road.¹⁰⁹ Door-to-door garbage collection is not being done completely in all 110 wards of the city. Due to which people are forced to throw garbage on the side of the roads. It is clear from this that the door-to-door garbage collection scheme is not working completely.¹¹⁰ The concept of the door-to-door collection is to make residents not throw garbage on the street and give it to the garbage collectors. Garbage collectors transport the waste in their compact vehicles to the transfer station, from where larger compact trucks can transport the waste to a landfill site for treatment and recycling. As per the Hindustan Times, Only 30% of the waste reaches the landfill site, while 70% is dumped on roads, lanes, empty plots, big nullahs, and outskirts of the city. This happens with the connivance of officials, sanitation staff, and waste collectors.¹¹¹

¹⁰⁸ Pranchal Shrivastava, Coronavirus hits doorstep waste collection in Lucknow, raises a stink, *The Times of India*, April 4, 2020.

¹⁰⁹ Available at: <https://navbharattimes.indiatimes.com/metro/lucknow/development/nbt-online-camera-reveals-reality-of-lucknow-municipal-corporations-cleanliness-campaign-see-photos/articleshow/79699020.cms> (visited on: January 11, 2021)

¹¹⁰ *ibid*

¹¹¹ Available at: <https://www.hindustantimes.com/lucknow/lucknow-becoming-a-stinking-city-as-trash-mounts-on-streets/story-Zcwey6LmWvGoJqye3gkhHK.html> (visited on: January 12, 2021)

The Lucknow Nagar Nigam has prime responsibility for solid waste management. At present Eco-Green Company is doing garbage collection work in Lucknow city. The company was hired in 2014 after the cancellation of Jyoti Envirotech's contract following complaints about poor garbage collection. However, Eco-Green too could not cover the entire city under door-to-door garbage collection programme. Earlier, LMC had decided that they will share the work burden by dividing the city into two parts. Garbage collection of zones 1 to 4 was given to Eco-Green, while zones 5 to 8 were handed to private agencies. However, the decision was changed after corporates demanded that only Eco-Green be responsible for household garbage collection and private agencies should be deployed to clean drains, sweep roads, and collect waste from garbage bins.¹¹² But, as per the new rules Eco-Green will replace all the private contractors.¹¹³

According to LMC, there are 5.48 lakh households in the city. Eco-Green has the responsibility of collecting daily garbage from 3.78 lakh households, while the civic body itself covers 1.7 lakh households. Around 60000 are yet to be covered under the door-to-door system. LMC is ensuring 100 percent garbage collection from 1.7 lakh households under it.¹¹⁴ For this purpose, more than 500 vehicles has been deployed for door-to-door garbage collection. With this, more than 100 new GPS equipped vehicles were given to Eco-green. Each vehicle has four boxes of wet waste, dry waste, medical waste and electronic waste.¹¹⁵

Along with garbage collection, there is also a need to promote the activity of segregation of waste at the place of collection. Garbage collector plays an important role in the segregation of waste. In order to effectively implement the guidelines of solid waste management and Swachh Bharat Mission, LMC has started to install two dustbin in each household in 2017. This two-bin concept is called the Twin Bin system. A twin bin system is a process of setting up two garbage bins in order to

¹¹² Lucknow: Now, pay double for your trash collection, *The Times of India*, July 23, 2019. Available at: [https://timesofindia.indiatimes.com/city/lucknow/lucknow-now-pay-double-for-your-trash-collection/articleshow/70338462.cms#:~:text=Lucknow%20Municipal%20Corporation%20\(LMC\)%20has,Rs%2040%20to%20Rs%2080](https://timesofindia.indiatimes.com/city/lucknow/lucknow-now-pay-double-for-your-trash-collection/articleshow/70338462.cms#:~:text=Lucknow%20Municipal%20Corporation%20(LMC)%20has,Rs%2040%20to%20Rs%2080). (visited on: January 11, 2021)

¹¹³ Pranchal Shrivastava, Coronavirus hits doorstep waste collection in Lucknow, raises a stink, *The Times of India*, April 4, 2020.

¹¹⁴ *ibid*

¹¹⁵ Available at: <https://navbharattimes.indiatimes.com/metro/lucknow/administration/lucknow-is-the-cleanest-city-in-uttar-pradesh-got-swachh-survekshan-2021-award-in-delhi/articleshow/87826219.cms>. (visited on: November 21, 2021)

separate wastes. It has green bin and blue bin. The green bin is for managing wet waste. The blue bin is for managing dry waste or recyclable products like plastics. Lucknow Municipal Corporation has distributed 900 blue and green coloured dustbins along with 2,000 bags for biodegradable waste in about 400 households as a symbolic distribution across the city. Also, the officials were to go from door-to-door to create awareness about waste segregation as more of these bins are distributed.¹¹⁶ This would educate them to segregate domestic waste at source before handing it over for processing. After distribution of dustbins, people will be trained to segregate trash as biodegradable and non-biodegradable.¹¹⁷ Taking the waste segregation seriously, the LMC launched 95 e-rickshaws in 2017, having in-built compartments clearly demarcated and colour coded for dry and wet wastes.¹¹⁸

Lucknow produces around 1,500 metric tons of solid waste per day and there is only one landfill site at Shivri, located about 150 kms from Lucknow and spread in just 46 acres. Presently, Eco-Green is responsible for door-to-door collection of waste and running the Shivri waste-to energy-plant. It is estimated that over 2.5 lakh tonne of untreated waste is lying dumped at Shivri, Lucknow.¹¹⁹

In 2020, the LMC has decided to introduce Radio Frequency Identification (RFID) technology so that bar codes can be used to ensure door-to-door garbage collection. A bar code will be pasted outside every house and a sanitation worker will be required to scan the same using a smart phone after his/her daily duty. The bar code will contain the GPS location of every house for easy monitoring from the control room. Scanning the bar code will send an instant alert to the LMC control room and is likely to go a long way in checking employee truancy.¹²⁰

¹¹⁶ LMC to hand out dustbins to people, *The Times of India*, April, 19, 2017. Available at: http://timesofindia.indiatimes.com/articleshow/58250300.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst (visited on: July 25, 2019)

¹¹⁷ *ibid*

¹¹⁸ Available at: <https://swachhindia.ndtv.com/lucknow-launches-95-e-rickshaws-for-garbage-collection-ahead-of-world-environment-day-8270/> (visited on: July 25, 2019)

¹¹⁹ *ibid*

¹²⁰ Lucknow garbage collection to go hi-tech, *India Today*, September 3, 2019. Available at: <https://www.indiatoday.in/india/story/lucknow-garbage-collection-to-go-hi-tech-1594782-2019-09-03> (visited on: December 15, 2019)

6.5.2 Sewerage and Drainage System in Lucknow

The sewerage system in Lucknow was first provided in 1918 and has been augmented from time to time. In 1948-49 a comprehensive drainage scheme for the city was prepared to cater to the demand. The works under the scheme were completed in 1955. Due to the flood of 1960-61, damage occurred to the sewerage systems of the city. In 1987-88 another sewerage Master Plan was prepared. However, there have been no major works since the 1948 Master Plan, although a detailed Urban Environmental Services Master Plan Lucknow (1996-2021) was prepared in the 1990s to deal with improving the sewerage and sanitation situation in the City.¹²¹

The whole Lucknow city is divided into sewerage districts, I, II, III Part-1, III Part-2, IV. They further divided into zones with their own pumping station of trunk sewer. Zones are further divided into several sewer sub-catchment areas. District I and III have 100% coverage of sewer lines, whereas, in district IV, the sewerage system has become defunct due to a decade-old system and absence of maintenance. District II lacks in the sewerage system.¹²² At a present total length of the sewer line is 1174 km in districts I and III. Some of the parts of district II and IV are also covered with sewer lines. Only 45% of the city area is equipped with a sewage network. In 2019, the installed sewerage capacity was about 438 mld. only, out of which 37 mld. STP was constructed by Avas Vikas. Whereas, the required capacity is 700 mld.¹²³

Two major organizations are responsible for sewerage establishment and maintenance in Lucknow, namely, Jal Nigam and Jal Kal (LMC) (earlier known as Jal Sansthan). Jal Nigam is responsible for the implementation and execution work related to sewerage, and Jal Kal is responsible for the distribution, operation, and maintenance purpose. Apart from these two organizations LDA, UPAVP, and Private

¹²¹ Lucknow City Development Plan 2006. Available at: <https://lmc.up.nic.in/pdf/Summary%20Lucknow%20CDP.pdf> (visited on: April 21, 2019)

¹²² Lucknow Municipal Corporation, Final report, Revised City Developed Plan, Lucknow City, 2040, Volume I, January 2015. Available at: <https://lmc.up.nic.in/pdf/Final%20CDP%20-%20Volume%20I.pdf> (visited on 10-12-2020)

¹²³ *ibid*

Developers are responsible for executing sewerage system work in township and colonies/area developed by them.¹²⁴

Table 6.6: Summary of Sewerage District in Lucknow

Sewerage district	Population	Area covered	Sewerage network	Current sewage generation	Existing STP	Proposed STP
District I	2,81,158	Chowk Hardoi Road, Campbell Road, and Dubagga, etc.	339	48.90	Daulatganj STP-56 MLD	
District II	3,67,501	Amausi area and Sarojini nagar	NA	63.92		Bijnor STP-56 MLD (till 2025), 126 MLD (till 2045)
District III	10,35,060	Trans Gomti side	835	180.04	Bharwara STP- 345 MLD	
District IV	11,33,385	Cis Gomti side	NA	197.14		Mastemau STP-270 MLD
TOTAL	28,17,105		1174	490		333 till 2045

Source: Final report, Revised City Developed Plan, Lucknow City, 2040

SUEZ group manages the entire sewer network and wastewater treatment plants in Lucknow since 2019. The city of Lucknow is equipped with eight major pumping stations of wastewater feeding to three wastewater treatment plants (14000, 42000, and 345000 m³/day). In order to maintain over 1.600 km of underground sewer network, SUEZ will deploy, for the first time in India, a fully mechanised network cleaning system.¹²⁵ The state government is also planning to appoint private agencies to operate STPs. Under ‘One City, One Operator,’ the entire sewer system, including STP, will be given to the private company for maintenance. Currently, the Lucknow Municipal Corporation has to spend about Rs 125 crore annually, on STP operations, in the new system, it will be Rs 40 crore. At present, there are 99 STPs, and 58 new STPs are to be installed.¹²⁶

¹²⁴ Lucknow City Development Plan 2006. Available at: <https://lmc.up.nic.in/pdf/Summary%20Lucknow%20CDP.pdf> (visited on: April 21, 2019)

¹²⁵ Available at: <https://www.suez.com/en/news/press-releases/suez-wins-the-contract-to-manage-the-sewage-treatment-infrastructure-at-the-city-of-lucknow-in-india> (visited on: November 14, 2019)

¹²⁶ Deepak Lavania, UP government appoints private agency to operate STPs, *The Times of India*, Jun 13, 2019.

According to LMC records, of the 2.46 lakh litre sewage produce daily, around 1.44 lack liter is treated in Daulat Ganj and Bharwasa STPs while the rest flows unprocessed into the Gomti through 32 high rains.¹²⁷ The Gomti river covers 58 km from Chandrika Devi temple in Bakshi ka Talab to Indira dam in Lucknow. Of this, the 24-km stretch from Ghaila Pul to Shaheed Path is where the river is most polluted. In this section, an estimated 27 drains carry sewage waste into the river.¹²⁸

In absence of supervision by LDA and LMC, small-time builders have developed projects on the outskirts without providing a proper drainage system. In the main city, people are building apartments without increasing infrastructure like sewer lines and drainage pipes.¹²⁹ The Lucknow city has 24 high drains and around 1,000 small drains which connect with 73 bigger drain and then culverts. Besides, there is a total network of 1,800 km of small drains to channel the household sewage.¹³⁰ As a rule, all drains before houses should be cleaned every day and bigger drains every week. But most have not been cleaned for months. While LMC staff cleans the high drains, private agencies are hired by the civic body for the cleaning of small drains. Almost all colonies experience waterlogging and sewage outflow during rains because of choked drains.¹³¹ Though sewer lines were laid more than five years ago, they lie unused because of the poor rate of household connection. While Jal Nigam says that the Centre's funds were not enough to build sewer chambers, locals blame Jal Sansthan officials for laxity.¹³²

6.5.3 Household Toilets in Lucknow City

The total number of households in the city is 557,130 and the average household size is 6.09.¹³³ According to census of India 2011, 90% percent of households in LMC have toilet facilities within their premises where the rest of the

¹²⁷ Lucknow Municipal Corporation may lose swachh point in treating sewage. *The Times of India*, Dec 2019.

¹²⁸ Chandan Kumar, Lucknow: Untreated sewage killing our lifeline, *The Hindustan Times*, July 9, 2018

¹²⁹ Available at: <https://timesofindia.indiatimes.com/city/lucknow/drainage-poor-sewage-overflowing-across-lucknow/articleshow/61764469.cms> (visited on: September 16, 2020)

¹³⁰ Lucknow municipal corporation likely to miss May 30 deadline on cleaning drain, *The Times of India*, May 22, 2021

¹³¹ Available at: <https://timesofindia.indiatimes.com/city/lucknow/drainage-poor-sewage-overflowing-across-lucknow/articleshow/61764469.cms> (visited on: September 16, 2020)

¹³² *Ibid.*

¹³³ Lucknow Nagar Nigam. Available at: <https://lmc.up.nic.in> (visited on: April 21, 2019)

population does not have this facility. Households, not having a toilet facility, use a public toilet or defecate in open areas.¹³⁴

Table 6.7: Latrine Facility in Lucknow Municipal Corporation households

Total number of HHs	HHs having latrine facility within the premises	Type of latrine facility within the premises								HHs not having latrine facility within the premises	No latrine within premises	
		Flush/pour flush latrine connected to			Pit latrine		Night soil disposed into open drain	Service latrine			Alternative source	
		Piped sewer system	Septic tank	Other system	With slab/ventilated improved pit	Without slab/open pit		Night soil removed by human	Night soil serviced by animal		Public latrine	Open
5,12,519	4,62,109	2,78,835	1,66,273	7,254	2,480	905	4,211	848	1,303	50,410	12,070	38,340

Source: census data 2011 for LMC

The Uttar Pradesh government was set the target in 2014 to make Lucknow Open Defecation Free (ODF) by 31 July 2018. A total of 2 lakh toilets were to be constructed in urban/rural areas of Lucknow, to achieve the status.¹³⁵ In 2018, against the target of building 1,101 public toilets and 15,500 individual seats in homes, Lucknow Municipal Corporation has been able to construct just about 550 and 8,000 seats respectively, in Lucknow city. Most public toilets have fallen prey to poor maintenance and negligence of LMC and misuse by the public and are in such unhygienic condition that nobody wants to use it.¹³⁶ The government also grants an incentive of Rs 12,000 to a households for a toilet construction.¹³⁷

The public toilets in the city are being operated and maintained by Sulabh International, Non-Conventional Energy Development Agency (NEDA), District Urban Development Agency (DUDA), and LNN. The city has approximately 207 toilets having 2,656 seats (Source: Sulabh, DUDA, NEDA, and LNN) located across the zones. 72% of the toilets (155 toilets) are operated and maintained by Sulabh

¹³⁴ Lucknow City Development Plan 2006. Available at: <https://lmc.up.nic.in/pdf/Summary%20Lucknow%20CDP.pdf> (visited on: April 21, 2019)

¹³⁵Urooz Khan, Lucknow needs to build 2,608 toilets every day, likely to miss ODF target, *The Times of India*, June 14, 2018.

¹³⁶Priyanka Singh, Lucknow doesn't have enough toilets, *The Times of India*, June 29, 2018.

¹³⁷Urooz Khan, Lucknow needs to build 2,608 toilets every day, likely to miss ODF target, *The Times of India*, June 14, 2018.

International. Though the public toilets are spread across the city, they are not evenly distributed across the zones.¹³⁸

In 2018, Keeping in mind the safety of women, the district administration and the Municipal Corporation of Lucknow have jointly set up luxurious ‘pink’ toilets, especially for women in the city, under the banner of the UP's 'Safe City Project'. These pink toilets will be different from the usual public toilets. The toilets will have round a clock water supply and a separate section that will have a sanitary napkin dispensing machine. There will also be a separate space where women can breastfeed their babies. Toilets will also have portable incinerators for the disposal of sanitary napkins and tissue papers. Some of these localities are 1090 crossing, Janpath market, Hazratganj crossing, Aminabad, Qaiserbagh, Rajajipuram, Charbagh Bus station, Alambagh, Chandernagar, Ashiana, Bangla Bazar and Old city areas.¹³⁹

- **Swachhata Sarvekshan In Lucknow**

In an annual survey of cleanliness, hygiene and sanitation in cities and towns across India, LMC has performed miserably in Swachh Surveys so far. Failing to reach in top 100 cities in India, Lucknow was ranked 269 out of 434 cities in 2017. The civic body did better in the 2018 by securing 118th position out of 425 cities. However, it slumped further to 121 out of 425 cities in 2019. In 2020, Lucknow grab 12th position in India and 1st position in Uttar Pradesh. Also, Lucknow won the **Fastest Mover State /National Capital/ UT** award.¹⁴⁰

In 2021, Lucknow bagged “best state capital in citizen feedback” and “garbage-free cities” awards for cities with over 10 lakh population categories in Swachh Sarvekshan 2021. This year Lucknow has also got the three Stars Award in Garbage Free City. Last year, Lucknow got only one star in the Garbage Free City. The support and maximum participation of Lucknow’s citizens in giving voluntary online feedback during the survey not only helped the Lucknow Municipal

¹³⁸ Final City Sanitation Plan for Lucknow, Japan International Cooperation Agency, 2011. Available at: <https://gphandlahdppfmccakmbngmbjnjiahp/https://lmc.up.nic.in/pdf/citysanitationplan.pdf> (visited on: March 22, 2018)

¹³⁹ Editorial: Lucknow to get modern ‘pink toilets’ for women, *The Hindustan Times*, March 06, 2018.

¹⁴⁰ Government of India, Swachhata Sarvekshan: 2020 (Ministry of Housing and Urban Affairs, 2020)

Corporation to win these awards but also to retain the 12th rank in India and first in Uttar Pradesh.¹⁴¹

Table 6.8: Swachhata Sarvekshan Ranking of Lucknow

Year	Swachhata Sarvekshan Ranking	Total ULBs
2017	269	434
2018	115	4203
2019	121	4207
2020	12	4242
2021	12	4250

Source: *Swachhata Sarvekshan: 2020 (Ministry of Housing and Urban Affairs)*

Therefore, the positive responses from its citizens, transparency in chain command between workers and officials, use of new technology and added workforce to increase door to door garbage collection were the main reasons that helped LMC retain 12th rank in Swachhata Sarvekshan, 2021. For this LMC had installed over 1800 three-bin sets (dry, wet and medical waste) for garbage segregation across the city. Further, about 10000 sites and vacant plots were made garbage free. Around 120 open garbage houses run by LMC have been eliminated by deploying compactor mounted trucks. Nine machines were also deployed to clean 62 roads. Apart from this, a construction and demolition waste plant has been established on Rae Bareli Road in which the debris/building materials are separated and prepared for reuse.¹⁴²

- **Sanitation Budget for Lucknow**

The allocation of sanitation budget for Lucknow city, under Swachh Bharat Mission (SBM) in the Union Budget, is getting reduced every financial years. In the financial year 2018-19, the national allocation for Swachh Bharat Mission was Rs. 19,427 crore, out of which Lucknow Municipal Corporation had received Rs 5 crore. However, in the financial year 2019-20, the fund allocation was reduced to Rs 12,644 crore, out of which Lucknow Municipal Corporation received only Rs 2.5 crore.

In 2021, the Lucknow Municipal Corporation (LMC) executive committee passed a budget of ₹1946.82 crore for the financial year 2021-22. Out of which, a sum of ₹140 crore was allocated for sanitation and ₹5 crore was allocated to fight corona

¹⁴¹Pranchal Srivastava, Trash management helps Lucknow retain Rank, *The Time of India*, November 21, 2021

¹⁴² *ibid*

in the city. Things like sanitisers, masks, PPE kits and sanitising machines would be purchased from this budget.¹⁴³

- **City Sanitation Plan for Lucknow**

The Ministry of Urban Development, Government of India (GOI), recognizes the extent of sanitation challenge in the country and has launched the National Urban Sanitation Policy (NUSP), which aims to transform urban India into community-driven totally sanitized, healthy, and liveable cities and towns.¹⁴⁴ The policy emphasises particularly on the improvement of hygienic conditions for the urban poor (inclusive approach) and for women through cost-effective technologies. All states are requested to act at par with the NUSP to develop respective State Sanitation Strategies and the preparation of City Sanitation Plans (CSPs). The city sanitation plan (CSP) identifies the institutional and infrastructural gaps and recommends an overarching strategy for safe management of human excreta and solid waste and safe disposal of industrial and other specified hazardous wastes.¹⁴⁵

The vision of the Lucknow City Sanitation Plan, as articulated by its stakeholders was, “Lucknow aspires to be among the best cities in India to live in by providing universal access to sanitation facilities, especially to the under-privileged, increasing the awareness of citizens about linkages between sanitation and public health, and ensuring sustainability and coordination amongst institutions providing these facilities.” To achieve this vision, a set of objectives was formulated along four broad aspects, namely infrastructure, institutional, financial, and social. The chief objectives were to ensure that Lucknow became 100% open-defecation free by 2015 and there was 100% collection and scientific disposal of solid and liquid wastes, generated in the city of Lucknow, by 2015. Also, the objectives included instituting

¹⁴³ Available at: <https://www.hindustantimes.com/cities/lucknow-news/lmc-executive-passes-rs-1946-82-cr-budget-101616603537174.html> (visited on: March 24, 2021)

¹⁴⁴ Final City Sanitation Plan for Lucknow, Japan International Cooperation Agency, 2011. Available at: <https://gphandlahdpffmccakmbngmbjnjiihahp/https://lmc.up.nic.in/pdf/citysanitaionplan.pdf> (visited on: March 22, 2018)

¹⁴⁵ Available at: http://mohua.gov.in/upload/uploadfiles/files/CSP_Fact_Sheet_0.pdf (visited on: March 30, 2021)

processes that allowed for expansion of sanitation services along with the growth of the city.¹⁴⁶

6.6 ADMINISTRATIVE RESPONSES ABOUT SANITATION IN LUCKNOW CITY

The researcher intends to know the sanitation situation in the city by approaching to the officials of LMC to take their interview. But it is noticed that LMC officials often refers to LMC websites for the responses on the queries asked by the researcher. Very little information could be collected by the researcher through RTI and personal interaction.

At first, the researcher visited different zones and had interviewed some LMC officials to get the information related to the problem of sanitation in Lucknow. While asking about the safety measures uses by the sanitation workers, the Municipal Health Officer of Zone 3 (Kapurthala) told that while cleaning, the safety and health of the employees are taken care of by providing masks, gloves, and other cleaning equipment. Also, Safai Karamcharis and sanitation are supervised by Sanatory and Food Inspector of the concern zones. Sanatory and Food Inspector of Zone 5 (Chandar Nagar), Meera Rao told the researcher that about 50 to 60 sweepers are engaged in sanitation work in their areas. Swachh Bharat Mission officer, Nandini Krishna (Social Development Specialist) of Zone 1 answered all the questions, asked by the researcher, in detail. The researcher asked about the construction of toilet in the households, she informed that any individual can apply for the construction of toilet in their houses through writing an application. After that, the Sanatory and Food Inspector will verify the place and may approve or reject the application. She further told that the main focus of LMC is on the construction of community toilets, especially in the slum areas. In addition, LMC also issues passes for the use of community toilets. The Swachh Bharat Mission officer also informed that after October 2, 2019, the *Swachh Vatavaran Protsahan Samiti* have organized several awareness and behaviour change programs to spread awareness among people about cleanliness in the community.

¹⁴⁶ Final City Sanitation Plan for Lucknow, Japan International Cooperation Agency, 2011. Available at: <https://gphandlahdpffmccakmbngmbnjiiiahp/https://lmc.up.nic.in/pdf/citysanitaionplan.pdf> (visited on: March 22, 2018)

The researcher also visited to other zones to get the information about status of sanitation in respective areas. However, most of the officials were reluctant to provide adequate information to the researcher. The researcher could collect some information from various departments of Lucknow Municipal Corporation through the RTI. The researcher sought information regarding the appointment and vacancy of the sanitation workers. The Municipal Health Officer informed the status of appointment/vacancy of sanitation workers in LMC. Around 3438 posts of Safai Karamcharis have been created in the Municipal Corporation of Lucknow, out of which about 1345 posts are vacant. As on 2020, there are 2093 regular Safai Karamcharis and 959 contractual Safai Karamcharis, which are working. This number of Safai Karamcharis may increase or decrease due to new appointments of deceased dependents, retirement, or other reasons.¹⁴⁷

The Researcher asked the LMC about their functioning of cleaning sewer lines in the city. For cleaning the sewer line in Lucknow Municipal Corporation area, the Public Information Officer (PIO), Secretary of the Water Department responded that Jal Nigam look after the work about laying of sewer lines in the colonies of Lucknow district, and the cleaning of the sewer line is being done by UP Jal Nigam through the private agency i.e. M/s. SWEZ India Private Limited. But the PIO did not give information about how many sewer lines are proposed to be laid in the Lucknow district and how many has been laid and how much budget was allocated for sewer in the financial year 2015-16 to 2019-20. Further, authority notifies the researcher that drains are cleaned regularly, but in special circumstances, cleaning is done through a *Safai Abhiyan*.¹⁴⁸

Regarding cleaning waste, roads, and drains, the Municipal Health Officer of the Health Department informed the researcher through RTI¹⁴⁹ that cleaning roads and streets in the entire municipal area has been done according to the boundary limits. In each demarcation area, sanitation workers have been appointed as per rules. Whatever garbage is collected during cleaning is transferred to the halting-place by hand cart or

¹⁴⁷Information provided by Municipal Health Officer, Health Department, Lucknow Nagar Nigam, through RTI (D. 441/HD/NSA/2020) dated 26-12-2020

¹⁴⁸ Information provided by Public Information Officer, Jal Nigam, Government of UP through RTI (D-382/HD/NSA/2020) dated 27-10-2020

¹⁴⁹Information provided by Municipal Health Officer, Health Department, Lucknow Nagar Nigam, through RTI (D. 441/HD/NSA/2020) dated 26-12-2020

other vehicles, from where that collected garbage is transported to the dumping station. After which, the disposal of garbage is done.¹⁵⁰ The PIO also informed that the condition of roads, streets and drains is generally satisfactory and the repair work of drains and roads is done as per requirement.¹⁵¹ The researcher found that even after the cleanliness drive of the Uttar Pradesh government, heaps of garbage and dirty public toilets could be seen in residential colonies. It was also seen that LMC staff is active only where the ministers is expected to visit.

The Environment Engineer, Pankaj Bhushan informed through RTI that Waste is collected by M/s Eco-Green Energy Private Limited from all 110 wards (partial in some wards and complete collection of waste from some wards) of district Lucknow. However, the researcher observed and got the information in the survey that in many colonies, the Eco Green vehicle is not taking garbage from every house in the daily basis. People told that Eco Green is irregular in collecting the waste, due to which they have to face problems of accumulation of garbage in their house and for this reason they deploy a private garbage collector. Along with this, the Lucknow Municipal Corporation has composed the song “Green Lucknow”, which will be heard playing in the garbage collection vehicle. This will not only create awareness about sanitation but will also inspire people toward cleanliness. This song is playing in around 210 garbage vehicles in the city.

The Environment Engineer further told that the collected waste is disposed of at the Solid Waste Management Plant located at Shivri, Mohan Road, Lucknow. The dry and wet waste is separated by trommel and ballistic separator at Solid Waste Management Plant, Shivri. After segregation, RDF is made from dry waste and compost is made from wet waste.¹⁵² The Municipal Health Officer of the Health Department, Nagar Nigam, Lucknow also informed the researcher that the cleaning of all the areas (colonies) acquired by the Municipal Corporation Lucknow is done by

¹⁵⁰Information provided by Municipal Health Officer, Health Department, Lucknow Nagar Nigam, through RTI (D. 441/HD/NSA/2020) dated 26-12-2020

¹⁵¹ Information provided by Executive Engineer-4, Nagar Nigam Lucknow, through the RTI (D-09/EE-4/2021) dated 09-04-2021

¹⁵²Information provided by the Environment Engineer, Lucknow Nagar Nigam through RTI (D-96/Env. Er./2020), dated 02-11-2020

the Municipal Corporation as per their standard and the areas which do not come under the jurisdiction of the LMC is not cleaned by them.¹⁵³

Municipal commissioner Ajay Dwivedi said that they have deputed a team which monitors hotspot areas to meet the requirement of sanitization in the pandemic. Any Covid-19 patient who wants to conduct the sanitization process in his/her area can contact the control room number. The civic body has also directed Eco-green and other private agencies to even collect garbage from households having Covid patients. The workers have been asked to tell the patients to keep the garbage outside their units in a sealed bag which will be collected later and kept in a separate section in the cart. The researcher observed that door-to-door garbage collection, the work of which is currently being done only by Eco-green, is not performing as per the expectations of the civic body. He further told that improving garbage management in the city is the main aim and after this to stop complete open garbage dumping would be the next target.

Dr. SK Rawat, Nagar Swasth Adhikari, while asking about the functioning of sanitation workers, said that there are complaints about workers not collecting waste. At many places, workers of the company don't turn up daily for waste collection. He further told that the LMC brought the technology from a Pune firm at ₹10 lakh but the sanitation workers never allowed its implementation.

6.7 DATA ANALYSIS

6.7.1 Research Methodology

The proposed research work is based upon the doctrinal and non-doctrinal methods. The research methodology is analytical, descriptive, and empirical to the extent that it seeks to analyse the sanitation facilities in Lucknow. The literature and other related materials have been collected from both sources, i.e., primary and secondary. Secondary data have been collected from the statutes, books, legal journals, reports, Supreme Court judgments, government policies, newspapers, magazines, websites, and published statistics. Primary data has been collected through questionnaires/Schedules and interviews. For collecting the primary data, the

¹⁵³Information provided by Municipal Health Officer, Health Department, Lucknow Nagar Nigam, through RTI (D. 441/HD/NSA/2020), dated 26-12-2020

researcher has prepared two questionnaires schedules; one for assessing the public sanitation awareness and sanitation behaviour of household beneficiaries. The other open and close-ended questionnaires and schedules are formulated for examining the Administrative responses of urban local government bodies responsible for sanitation-related functioning i.e., Lucknow Nagar Nigam.

6.7.2 Universe of Study

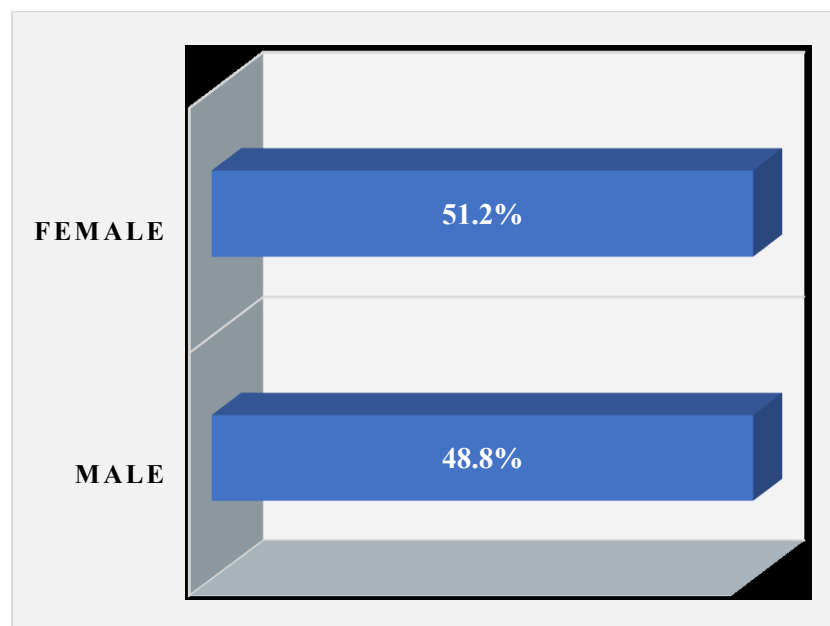
For the empirical study, Lucknow city has been taken as a unit of study. The information has been collected from the households through a simple random sample survey method from the eight zones of Lucknow city. The required information and data have been collected from the 500 households. The whole data has been analysed by applying the Statistical Package for Social Sciences (SPSS) software, and interpretation are made to test the hypothesis, and conclusions have been drawn from the findings of the empirical study.

6.7.3 Profile of the Respondents

(i) Gender:

It can be seen from the study made by the researcher that out of 500 respondents, 48.8% of respondents (244) are male, and 51.2% of respondents (256) are female. (Figure 6.2)

Figure 6.2: Gender of the Respondent



(ii) Age:

Age plays a vital role in practicing safe, sanitary habits. The research was conducted with the respondents belonging to different age groups to assess their awareness and knowledge regarding the right to sanitation.

Figure: 6.3: Age of the Respondent

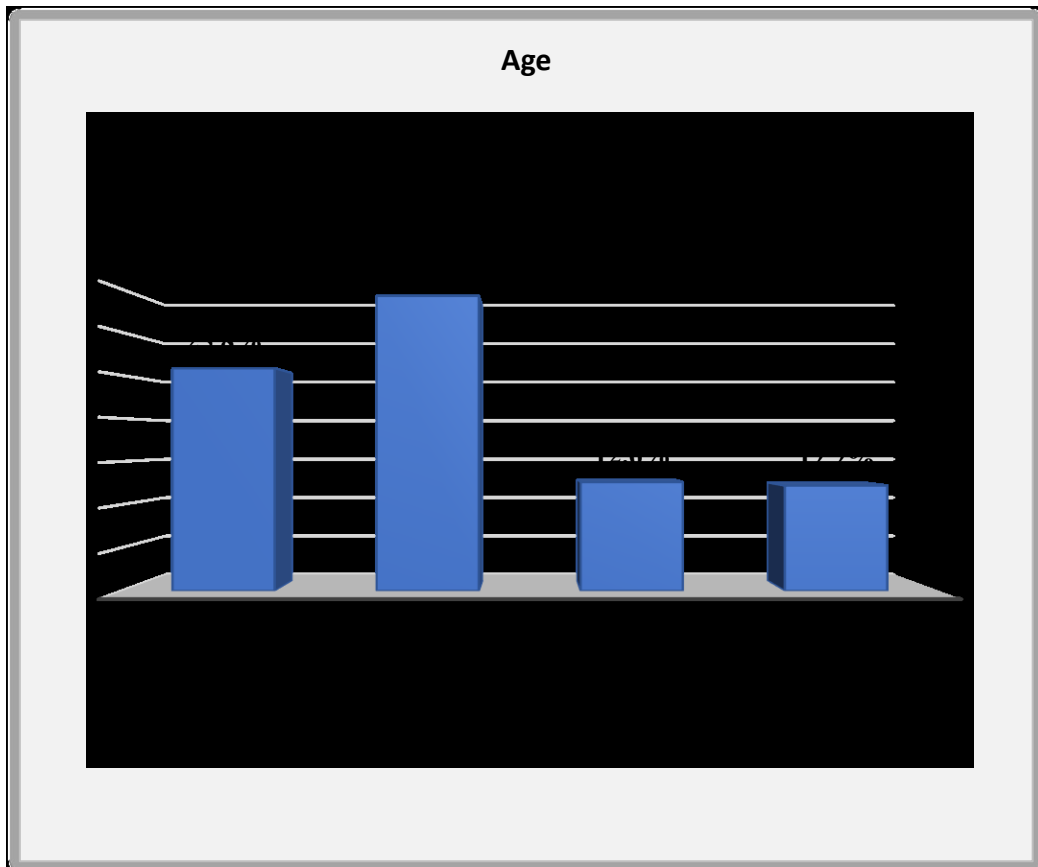
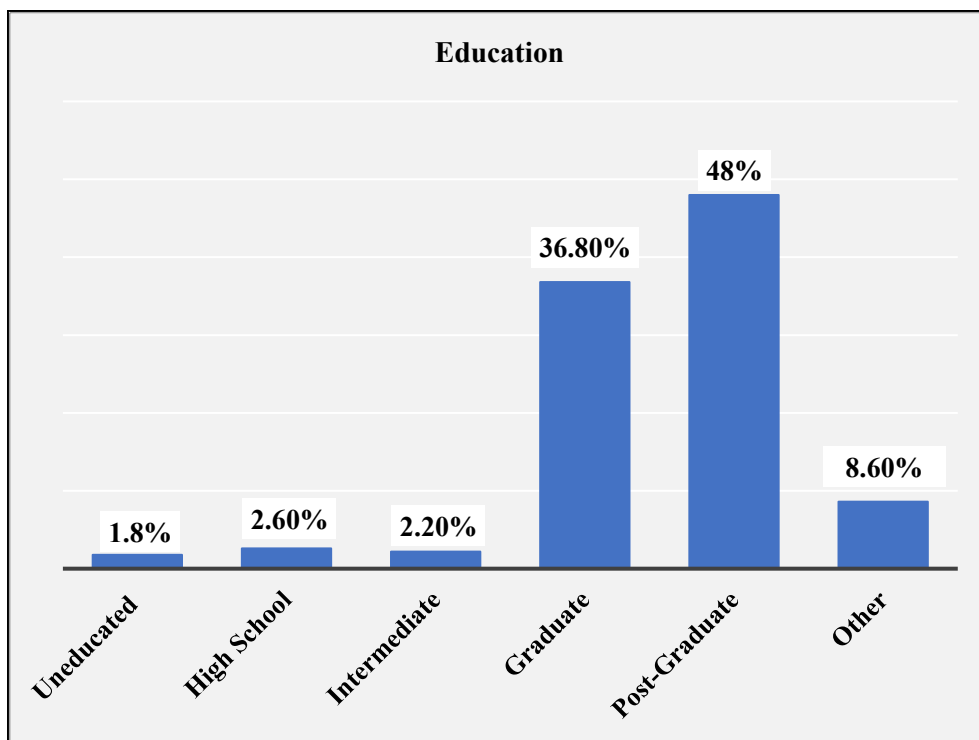


Figure 6.3 deals with the age category of the respondents. Out of 500 respondents, a maximum of 34.2% of respondents (171) belong to the 25-30 age group, followed by 25.8% of respondents, who are from the 18-24 years of age group. Around 24% of respondents belong to the 31 to 40 age group, and about 15.2 % are above 40 years of age.

(iii) Education:

It is said that education helps a person in learning the etiquettes of sanitation also, with this a person lives in a healthy and hygienic life. The following table represents the education profile of the respondents, divided into six categories as per their level of education. Figure 6.4 reveals that 48% of respondents are Post Graduate, followed by 36.8% who have graduated. 2.6% and 2.2% of respondents are High schools and Intermediate, respectively. Only 1.8% of respondents are uneducated; however, 8.6% belong to other categories.

Figure: 6.4: Education of the Respondents

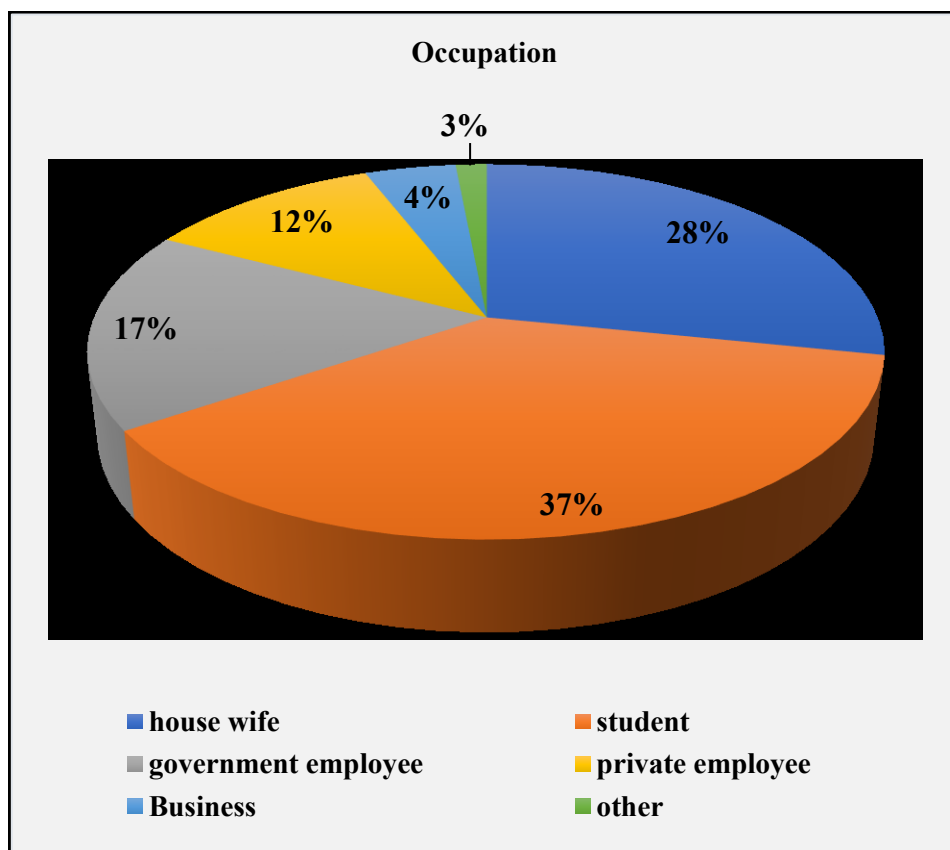


Here, it can be inferred that most of the respondents are highly educated and have sensibly answered the questions asked in the questionnaire, realizing the importance of sanitation.

(iv) Occupation:

Occupation is the main component of the socio-economic profile of any group of people. In the present study, the occupation of respondents has been grouped into six categories. Figure 6.5 shows that maximum 37.3% of respondents are Students, 17.2% are Government Employee, 11.4% are Private Employee, 28.2 % are Housewives, 4.4% are self-employed, and 1.5% does other occupation.

Figure 6.5: Occupation of the Respondents



Among the respondents, it is found that students and women are more responsive and are aware about sanitation related issues.

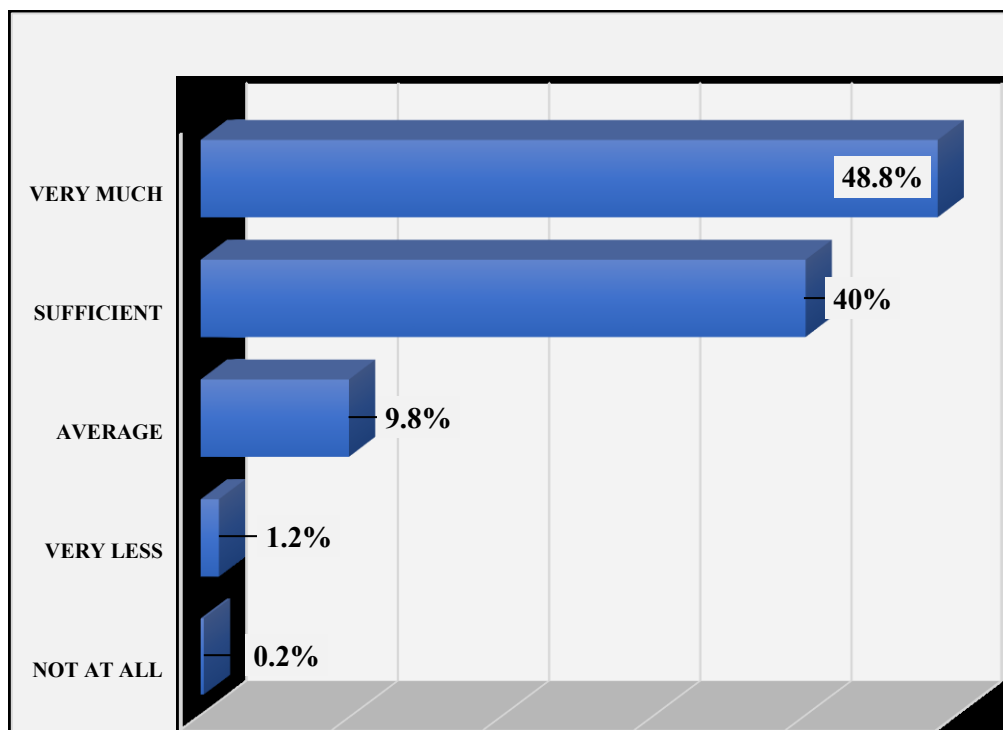
6.7.4 Awareness of Respondents about Sanitation

The awareness of the respondents about various aspects of sanitation has been sought through the questionnaire/ schedule and the responses/ views of the respondents have been analysed. The level of awareness about sanitation has been the responses which are generally related to issues like sewerage, drainage, waste, and toilet facilities provided in their local area and based on their knowledge of laws/policies for sanitation. The data analysis of the responses are given below:

6.7.4(a) Level of Awareness about Sanitation:¹⁵⁴

Awareness about sanitation is essential for living a healthy life. Figure 6.6 shows that about 49% of respondents are very much aware of sanitation, 40% of respondents possess sufficient knowledge, and about 10% have average knowledge about sanitation. However, data also shows that 1.2% of respondents are significantly less aware, and 0.2% do not even know about sanitation.

Figure 6.6: Level of Awareness about Sanitation

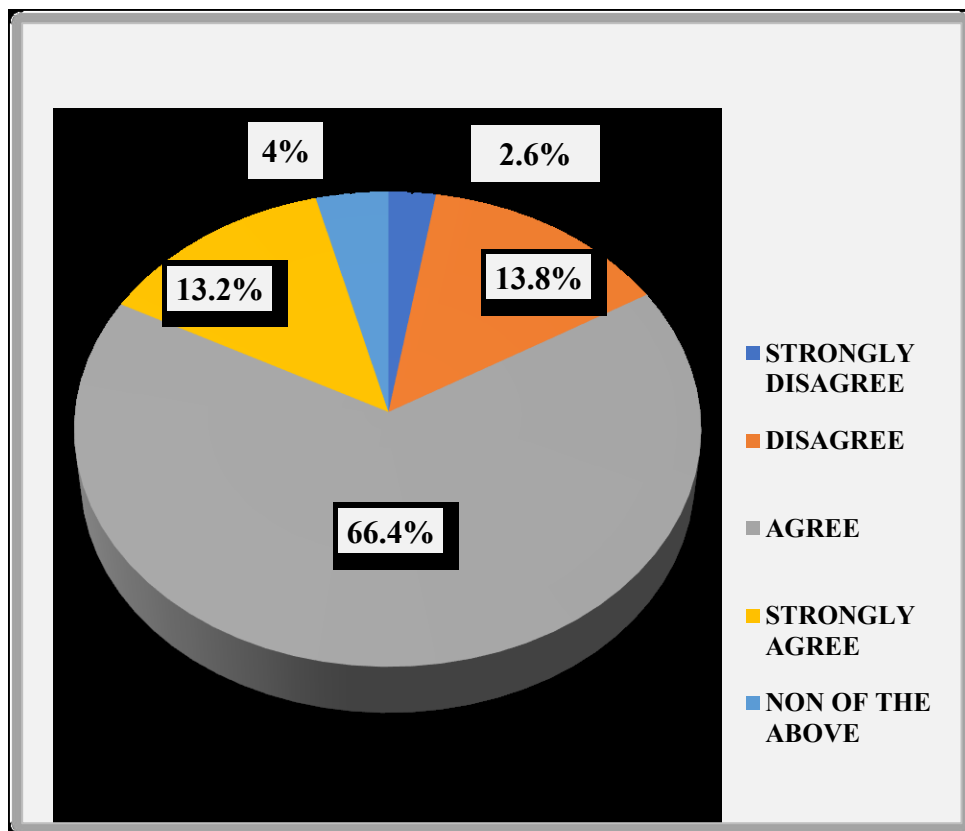


¹⁵⁴Q.1- How much do you aware about Sanitation?

6.7.4(b) Media as a Source of Awareness about Sanitation:¹⁵⁵

On the importance of media in raising awareness about sanitation, it is found that 66.4% of the respondents are agreed that media has raised their awareness about sanitation. In addition, about 13.2% of the respondents are strongly agreed that media (television, radio, print media, internet, and social media) has raised their awareness about sanitation. (Figure 6.7).

Figure 6.7: Media as a Source of Awareness about Sanitation



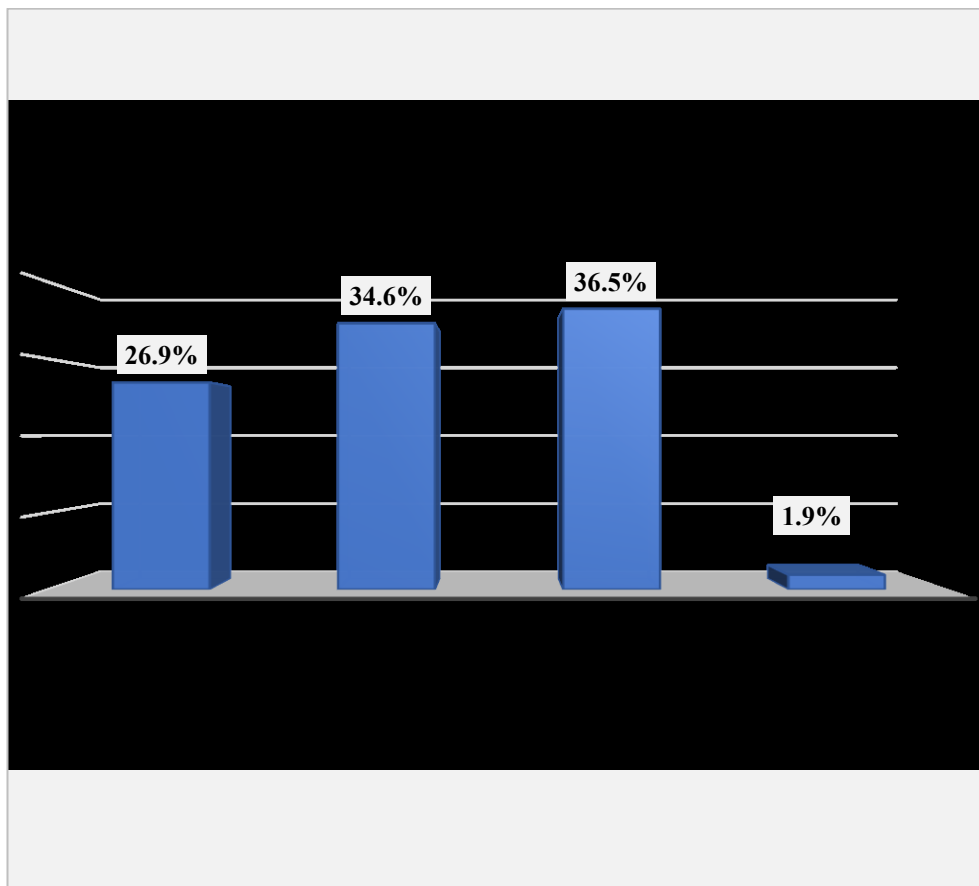
It means that most respondents believe that media play an essential role in spreading information and raising awareness about sanitation. Also, they can influence and change public opinion and behaviour on sanitation.

¹⁵⁵Q.2. Do you think that the media has raised your awareness about sanitation?

6.7.4(c): Media platform that provides information about sanitation:¹⁵⁶

As seen in the previous question, most people believed that the media raised their awareness of sanitation (**Figure 6.7**). In addition to that, a maximum of 36.5%(184) respondents specifically said that social media platforms are more effective than any other media platform. However, about 34.6% (173) respondents agree that broadcast media is more effective, followed by print media with 26.9%(134). 1.9% (9) of respondents said other platforms. (**Figure 6.8**)

Figure 6.8: Media, providing sufficient information regarding sanitation

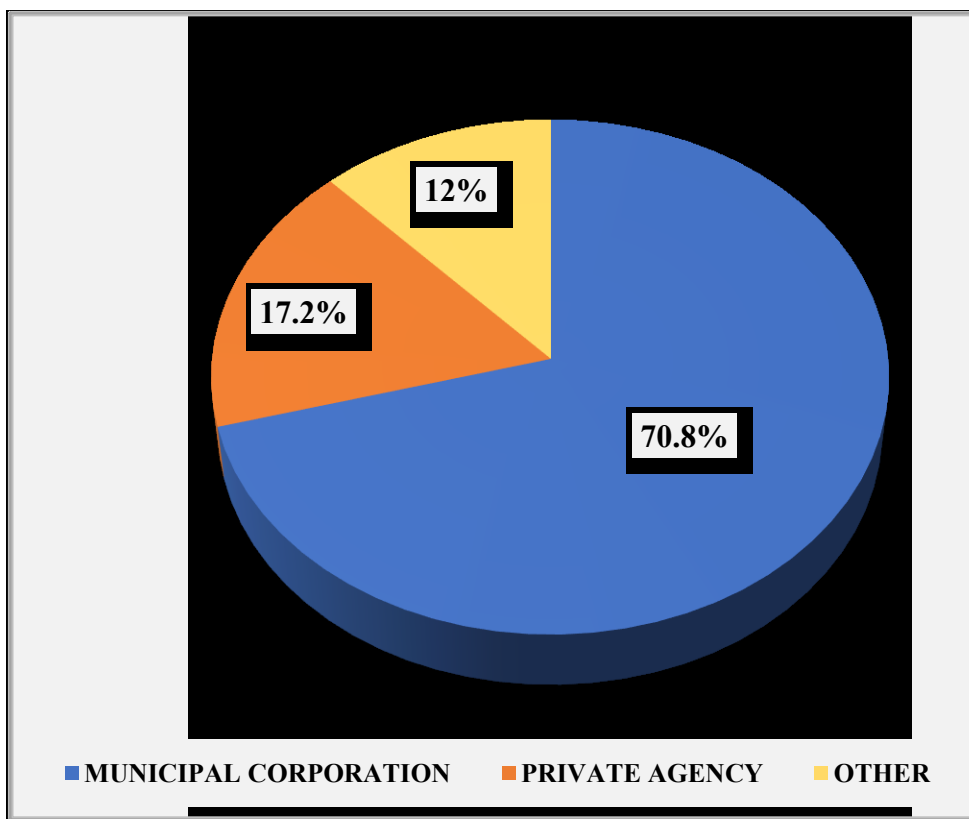


¹⁵⁶Q.3: Which kind of mass media platform provides sufficient information regarding sanitation?

6.7.4(d): Maintenance of Sanitation by Authorities:¹⁵⁷

Sanitation facilities provided in an area can be sustained only when they are well maintained. As per **Figure 6.9**, about 70.8% of respondents said that the Lucknow Municipal Corporation, and 17.2% said the private Agency maintains sanitation facilities in their respective area. However, 12% of respondents do not know who maintains their area.

Figure 6.9: Maintenance of Sanitation by Authorities

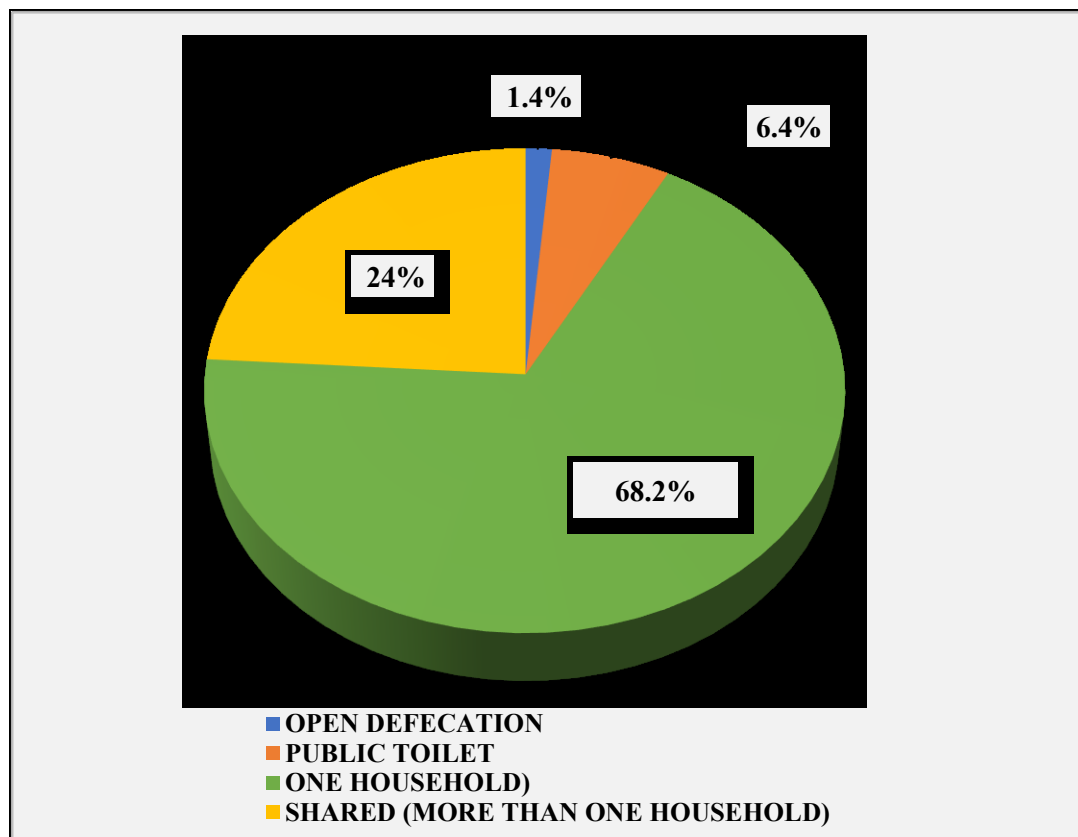


¹⁵⁷ Q.4: Which authority maintains the Sanitation facilities in your area?

6.7.4(e): Toilet facility:¹⁵⁸

Figure 6.10 shows that 68.2% (341) of households have a private toilet facility in their homes. In addition, 24% (120) of respondents use shared toilets. However, 6.4% (32) use a public toilet, and only 1.4% (7) of respondents defecate in open areas.

Figure 6.10: Toilet Facility



The data reveals that out of 500 respondents, 68.2% (341) have toilet facilities in their houses. It means that the government is providing basic amenities to the society at large. Another 24% (120) of respondents live with more than one family, and they all use a shared toilet. Further, 6.4% (32) respondents do not have a toilet facility in their homes and use public toilet facilities provided by either municipal corporations or private agencies. The data also shows that a small population of respondents (i.e., 1.4%) still defecate in the open. This means that due to the lack of

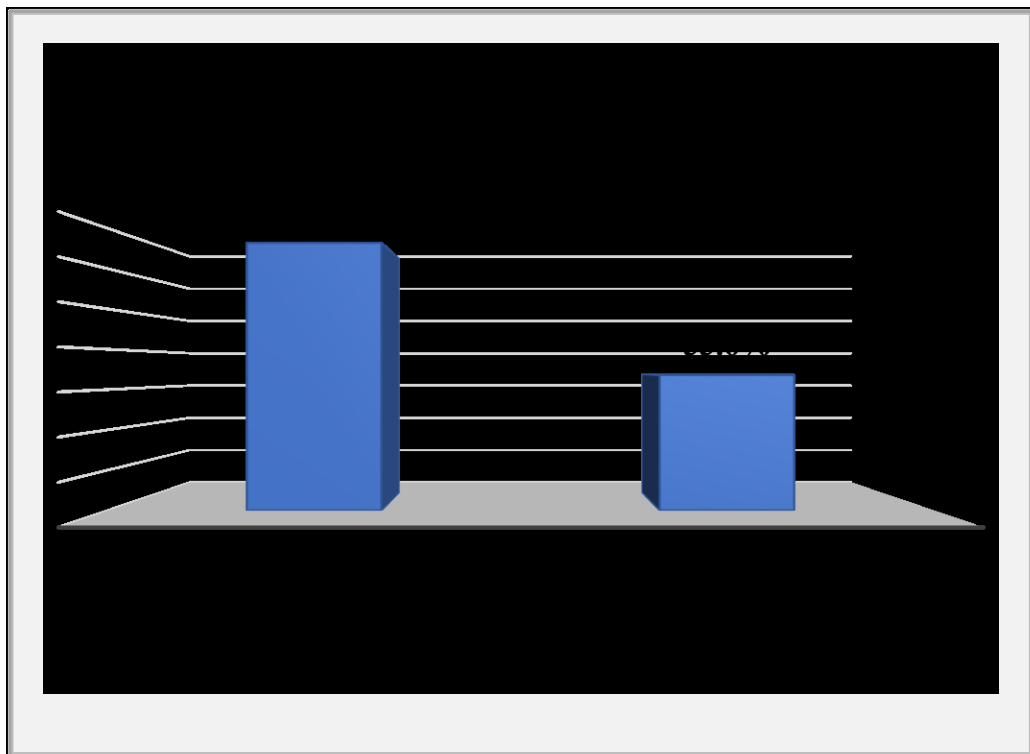
¹⁵⁸Q.5: What kind of toilet being used in your family?

sanitation infrastructure in their homes and the non-availability of public/community toilets in their areas, they are forced to defecate in the open.

6.7.4(f): Public Toilet:¹⁵⁹

Availability of a clean and hygienic public toilet, even when the people are away from their residence, is a fundamental right of the citizens. A public toilet is a small building with toilets (or urinals) and sinks that does not belong to a particular household but to the general public. Figure 6.11 shows that, out of 500, 66.4% of respondents (332) have used public toilets, but 33.6% of respondents (168) have never used any public toilet.

Figure 6.11: Public Toilet

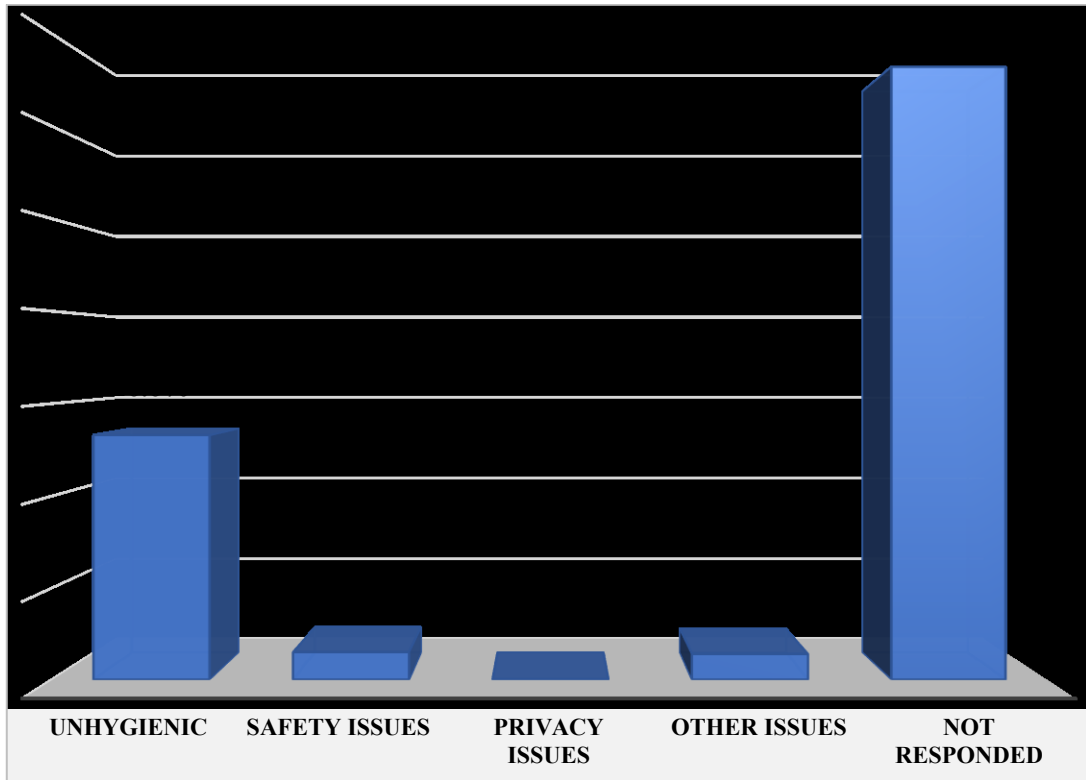


¹⁵⁹Q.6: Have you ever used any public toilet?

6.7.4(g): Reasons for avoiding a public toilet:¹⁶⁰

As previous **Figure 6.11** showed that 33.6% of the respondents never used public toilets, the researcher has discovered why they did not use public toilets. **Figure 6.12** shows the reason for avoiding public toilets.

Figure 6.12: Reasons for avoiding a public toilet



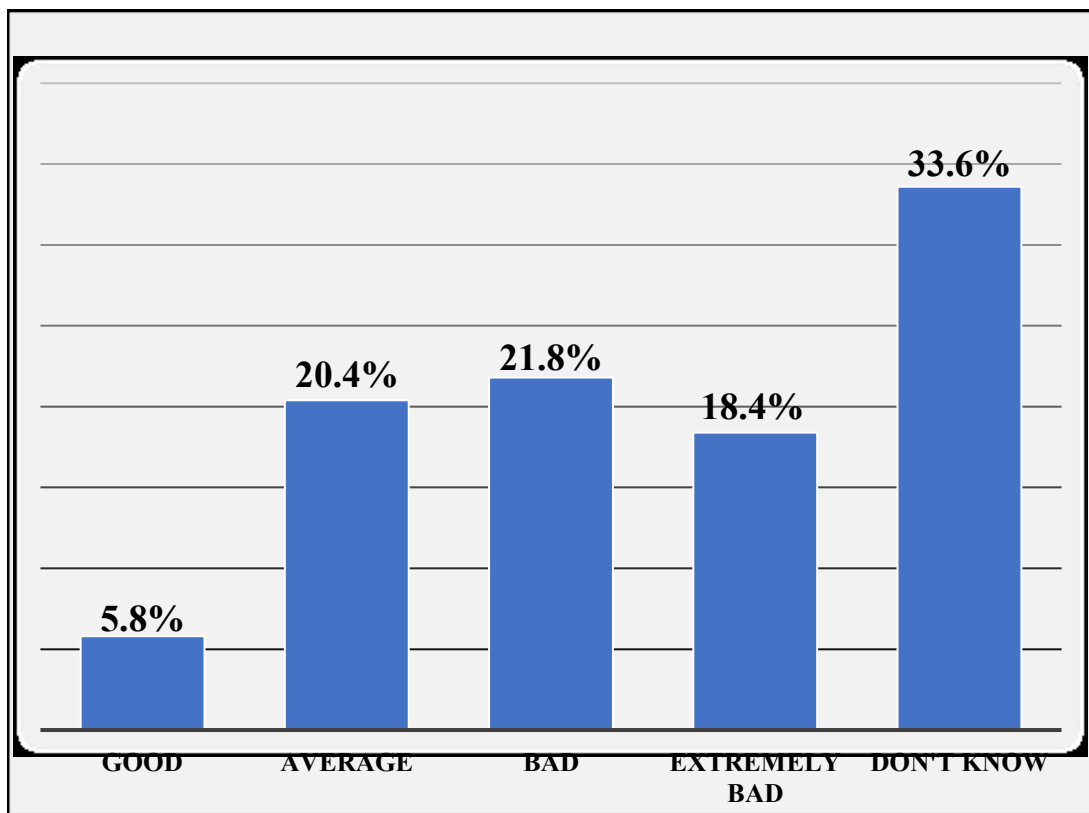
It shows that out of 33.6% (332) of the respondents, about 26.6% (133) avoid public toilets due to its unhygienic condition. In addition, 3% (15) avoid because of safety issues, 1.2% (6) do not use because of privacy issues, and 2.8% of respondents had other problems that prevent them from using public toilets. So it means people generally avoid using public toilets because of health and security reasons.

¹⁶⁰ Q.7: If no, what are the reasons that you avoided a public toilet?

6.7.4(h): Cleanliness of Public Toilets:¹⁶¹

Figure 6.11 shows that out of 500, only 66.4% of respondents (332) used public toilets and rated them according to their experience. According to **Figure 6.13**, a maximum of 21.8% (109) of respondents said the cleanliness of public toilets was Bad, and 18.4% (92) rated them Extremely Bad. However, 20.4% (103) have said the cleanliness of public toilets was average cleaned.

Figure 6.13: Cleanliness of the Public Toilets



It means that most people had poor experiences with the cleanliness of public toilets. Only 5.8% (28) of the respondents have rated public toilets as Good. It is evident here that 168 people did not answer this question because they never used the public toilet. It concludes that most of the public toilets in the city are not properly cleaned and unhygienic to use.

¹⁶¹ Q.8: If yes, then how will you rate the cleanliness of the public toilet?

Public toilets are generally not cleaned regularly and are kept unclean. Even the researcher has visited some public toilets and observed that public toilets are not properly cleaned and hygienic in condition.

6.7.4 (i): Drainage System in the Locality:¹⁶²

In cities existing and developing urban systems, drainage systems are required to effectively remove floodwater, rainwater, and different kinds of runoff. There may be both closed and open drainage systems in different areas in the city.

Figure 6.14: Drainage System in the Locality

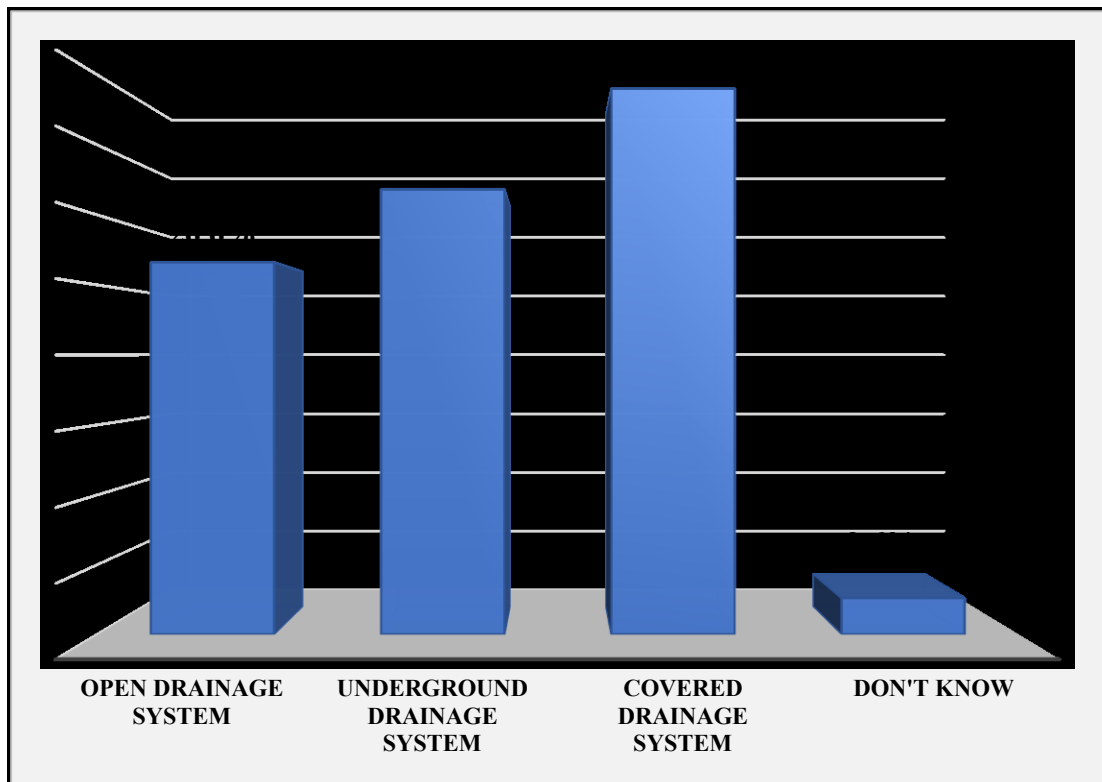


Figure 6.14 shows that 31.8% (159) of respondents have an underground drainage system in their locality. It means that they live in a planned colony with good sanitary infrastructure. A maximum of 39% (195) of respondents have covered drainage systems. However, 26.6% have an open drainage system. 2.6% do not know what type of drains are in their area. The government have provided underground and

¹⁶² Q.9: What kind of drainage system is there in your locality?

covered drainage system in almost all planed colonies. However, it is observed that the LMC does not properly clean drains in front of many houses.

6.7.4(j): Cleanliness of the Drains:¹⁶³

As a rule, all drains before houses should be cleaned every day and bigger drains, every week to prevent clogging, flooding, and surface water pollution. Figure 6.15 shows the duration of cleanliness of drains before the houses/areas of respondents.

Figure 6.15 Cleanliness of the Drain

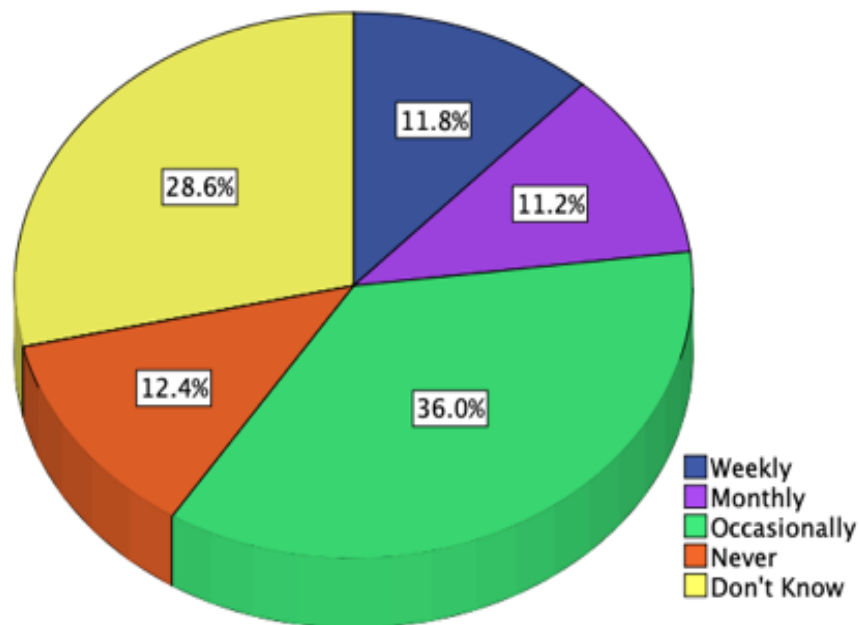


Figure 6.15 reveals that out of 500 respondents, only 11.8% (59) said that the drains before their houses are cleaned up weekly, which shows that drains are much cleaner in their locality. 11.2% (56) of respondents said monthly, a maximum of 36% (180) of respondents said occasionally, and 12.4% (62) of People said that the drains in their area are never clean. It means most respondents experience waterlogging and greywater outflow during rains because of choked drains in their colony. About

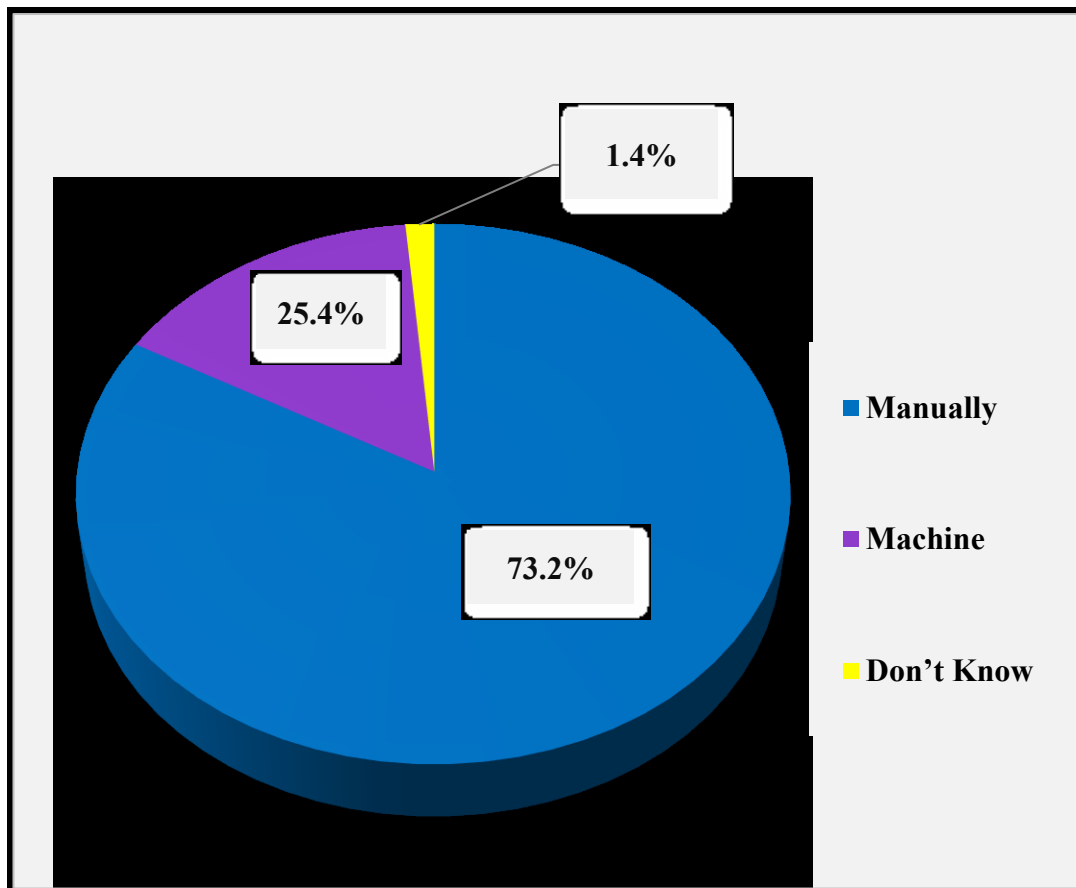
¹⁶³ Q.10 How often are drains cleaned in your area?

28.6% (143) of respondents do not know about the cleanliness of drains in their area, which shows their lack of awareness and careless attitude towards sanitation.

6.7.4 (k): Cleanliness of Sewer in the Locality:¹⁶⁴

Figure 6.16 shows, more than half (73.2%) of the respondents (366) said that the sewers of their areas are being cleaned manually. However, 25.4% (127) said that sewers are being cleaned through machines.

Figure 6.16: Cleanliness of Sewer in the Locality



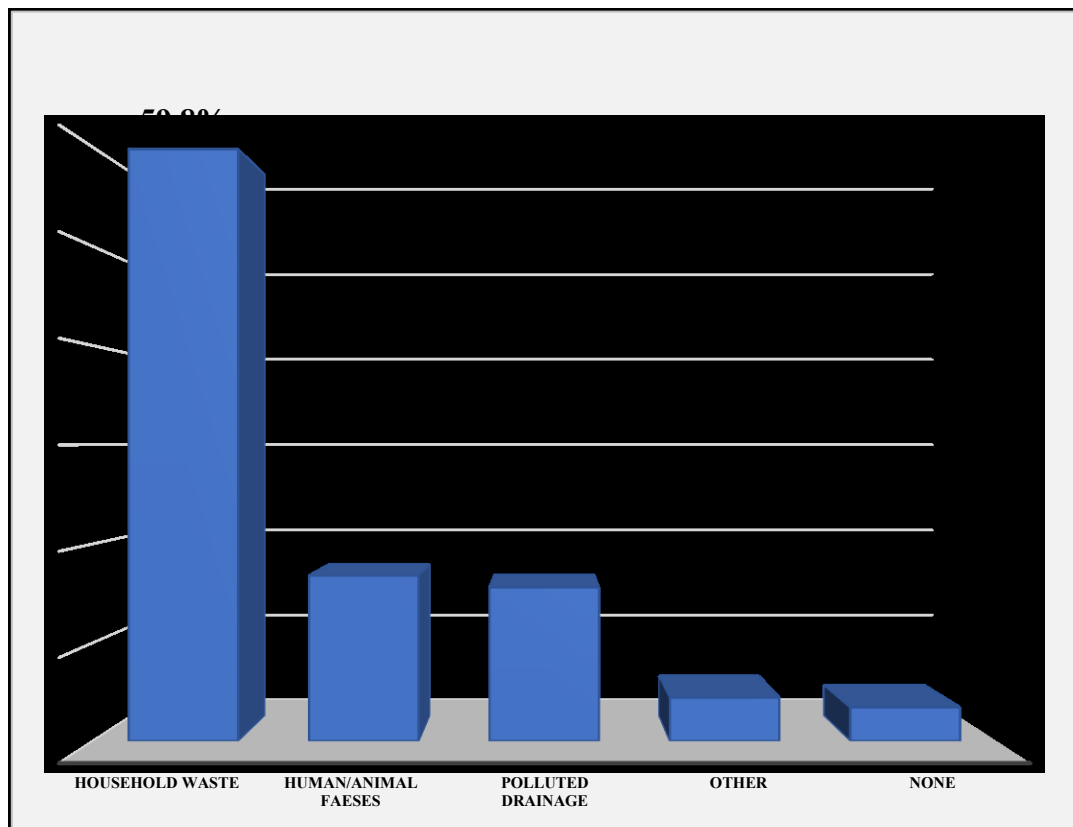
Data further shows that 1.4% (7) of respondents are not aware about the mode of cleanliness of sewers in their areas.

¹⁶⁴ Q.11. How are sewers cleaned in your area?

6.7.4 (I) Kind of Waste Found in the Locality:¹⁶⁵

Materials or substances with no use or value is called waste. Waste materials that are often found in colonies are household wastes. Household waste usually includes a lot of paper, glass, metals, and plastics materials such as paint, batteries, plastic diapers (nappies), motor oil, cleaning product containers, etc.

Figure 6.17: Kind of Waste Found in the Locality



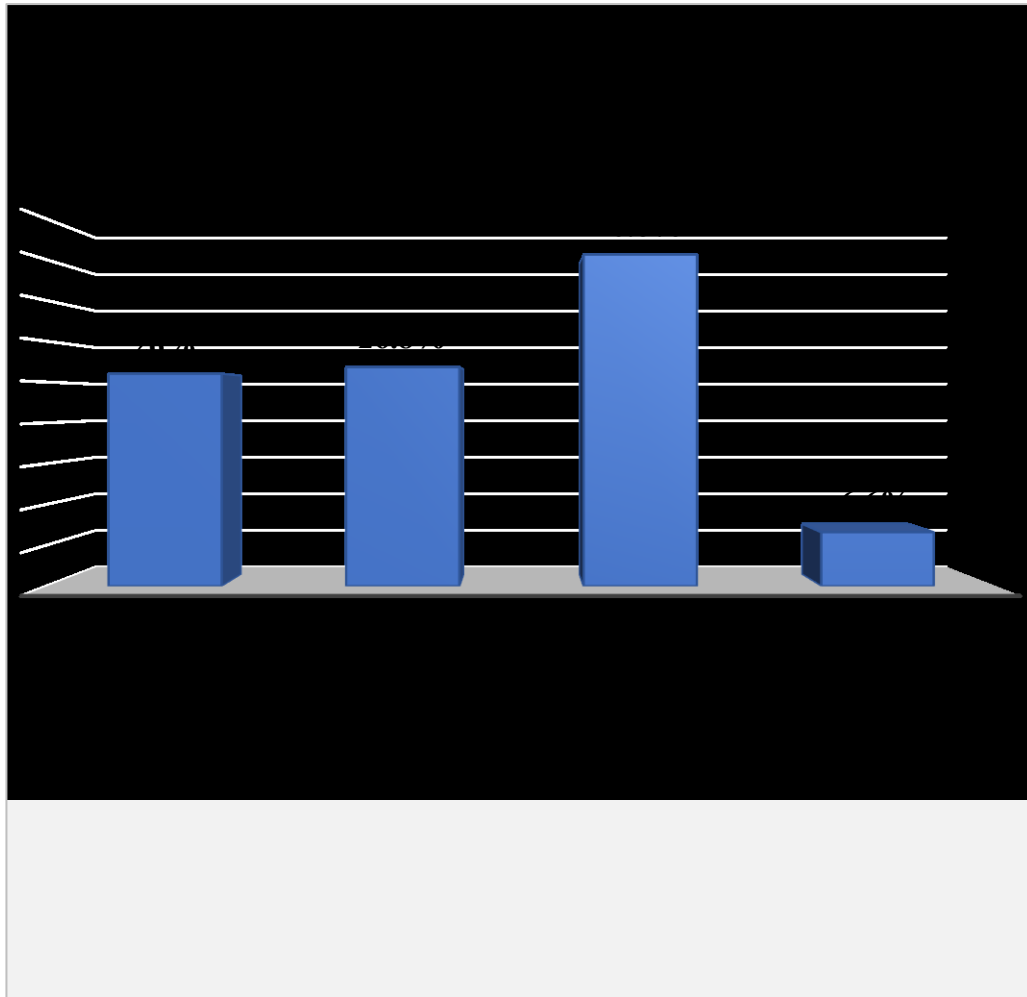
The researcher tried to find out from the respondents the kind of waste generally finds in their locality. The research shows that household waste is mostly found in the area of 59.8% (299) of respondents. However, 16.8% (84) found Animal/Human faeces, 15.6% (78) found pollutant drainage, and 4.4% (22) found other kinds of waste in their locality. Only 3.4% (17) of respondents' locality is so clean that no garbage is found in their local area (**Figure 6.17**).

¹⁶⁵ Q.12. What kind of waste do you generally find in your local area?

6.7.4 (m): Disposal of Daily household Waste:¹⁶⁶

Figure 6.18 shows that 40.6% (204) of respondents dispose of their household waste in government-run garbage vehicles. The vehicle takes garbage from door to door. About 26.8% (134) give their garbage to the private garbage collector, who also takes their garbage from door to door. In addition, 26% (130) of respondents throw their household waste in the locality dustbin, and 6.6% (33) disposes of their garbage in another manner.

Figure 6.18: Disposal of Daily household Waste

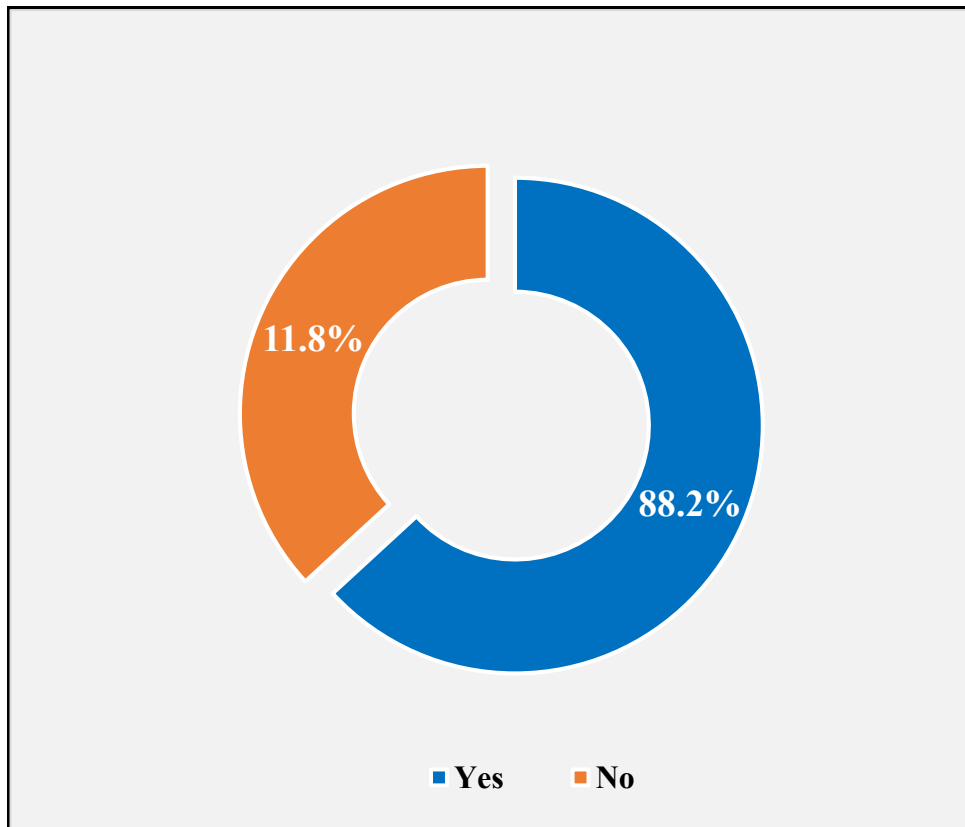


¹⁶⁶ Q.13. How do you dispose of your daily household waste?

6.7.4 (n): Awareness about Waste Segregation:¹⁶⁷

Figure 6.19 shows awareness regarding waste segregation. About 88.2% (441) of respondents are aware of waste segregation, and only 11.8% (59) of respondent do not know it. The data reveals that most respondents are aware of the segregation of dry and wet waste.

Figure 6.19: Awareness about Waste Segregation

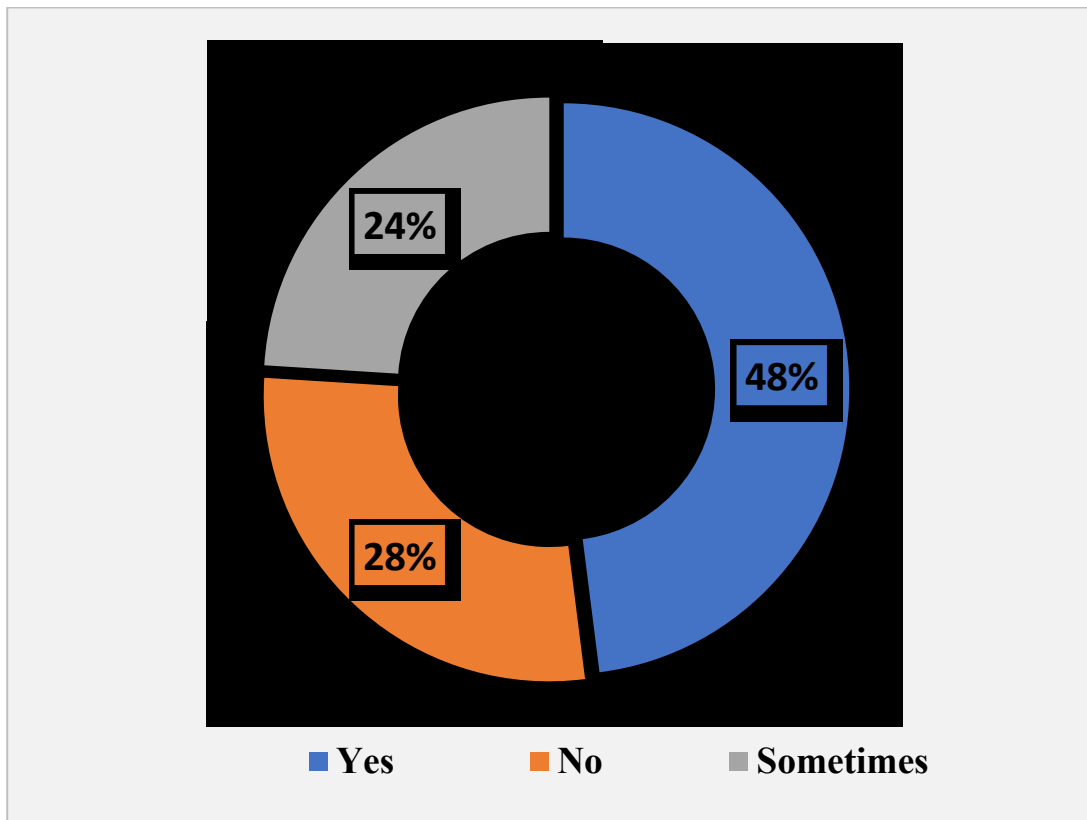


¹⁶⁷ Q.14. Are you aware of waste segregation?

6.7.4 (o):Waste Segregation at Home:¹⁶⁸

Figure 6.20 shows that 48% (240) of respondents separate wet and dry waste, and 24% (140) sometimes separate wet and dry garbage at their home. About 28% (120) does not separate waste. The results show that the majority of respondents have separate dustbins for that.

Figure 6.20: Waste Segregation at home



¹⁶⁸ Q.15. Do you segregate waste at home?

6.7.4 (p) Collected of Waste from the Locality:¹⁶⁹

Waste can cause environmental pollution. That is why cleaning the area and collecting garbage is very important for protecting the environment and public health.

Figure 6.21: Collected of Waste from the Locality

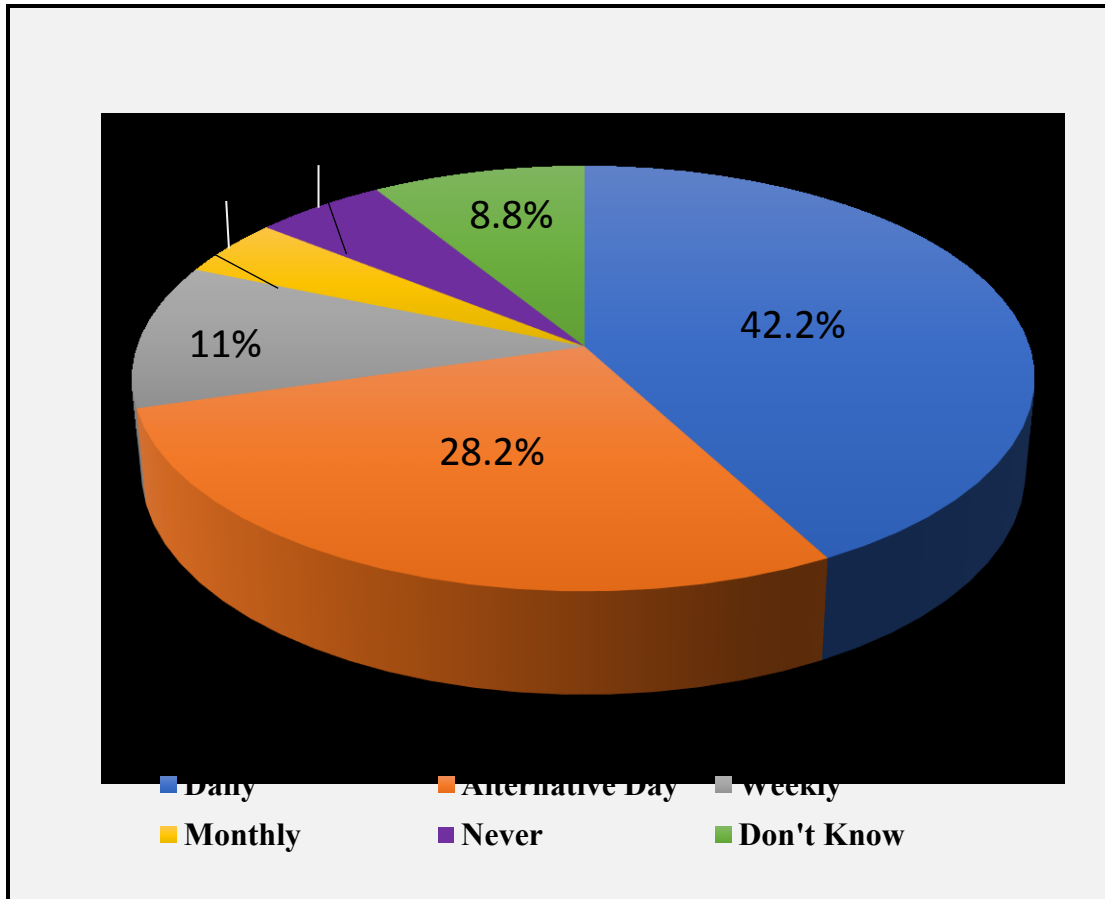


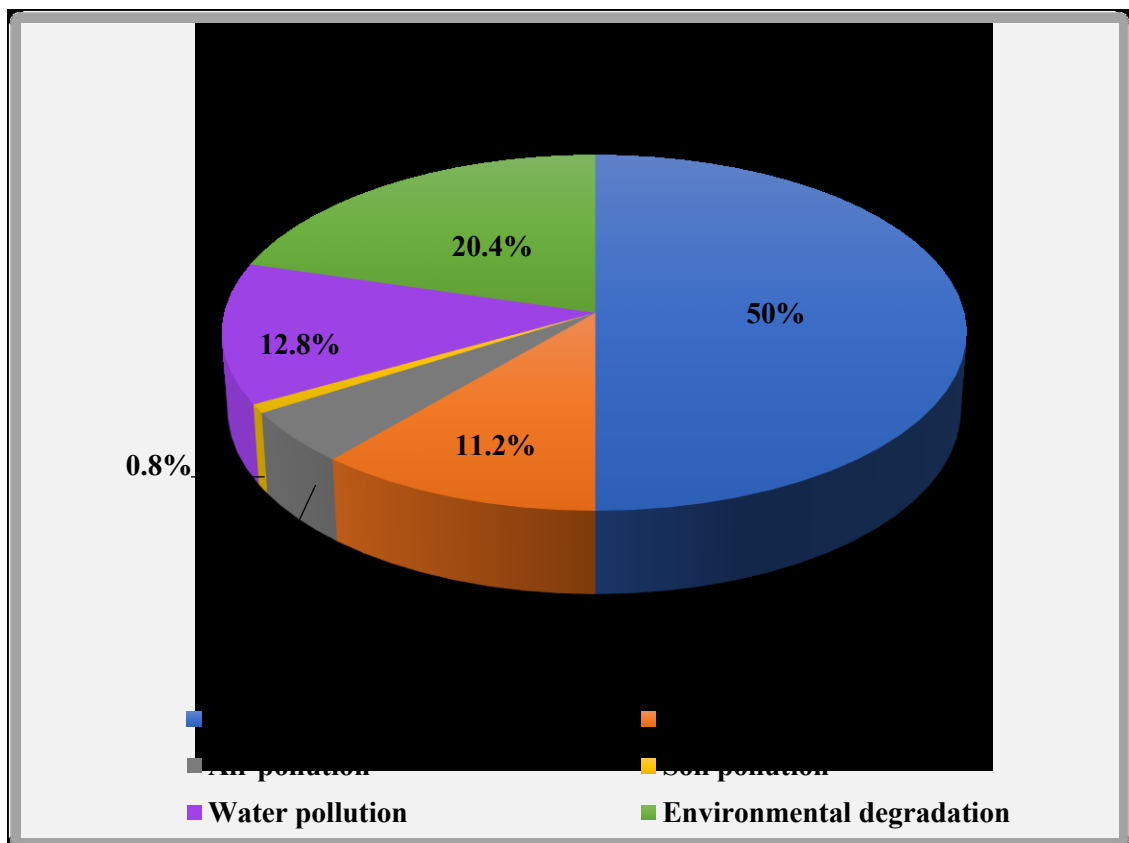
Figure 6.21 shows that a maximum of 42.2% (211) of respondents said that waste is collected daily from their area. About 28.2% (141) said on alternative days, 11% (55) said weekly, and 4.4% (22) stated that garbage collection from their area occurs once a month. However, 5.4% (27) respondents said never, and 8.8% (44) said they do not know about garbage collection from their area.

¹⁶⁹ Q.16. How often is the garbage collected from your locality?

6.7.4 (q) Problems due to Poor Sanitation:¹⁷⁰

Poor sanitation transmits diseases and impairs human welfare, social and economic development. Environmental impacts of poor sanitation and waste management include land and water pollution, visual effects of litter, and bad odours.

Figure 6.22: Problems due to Poor Sanitation



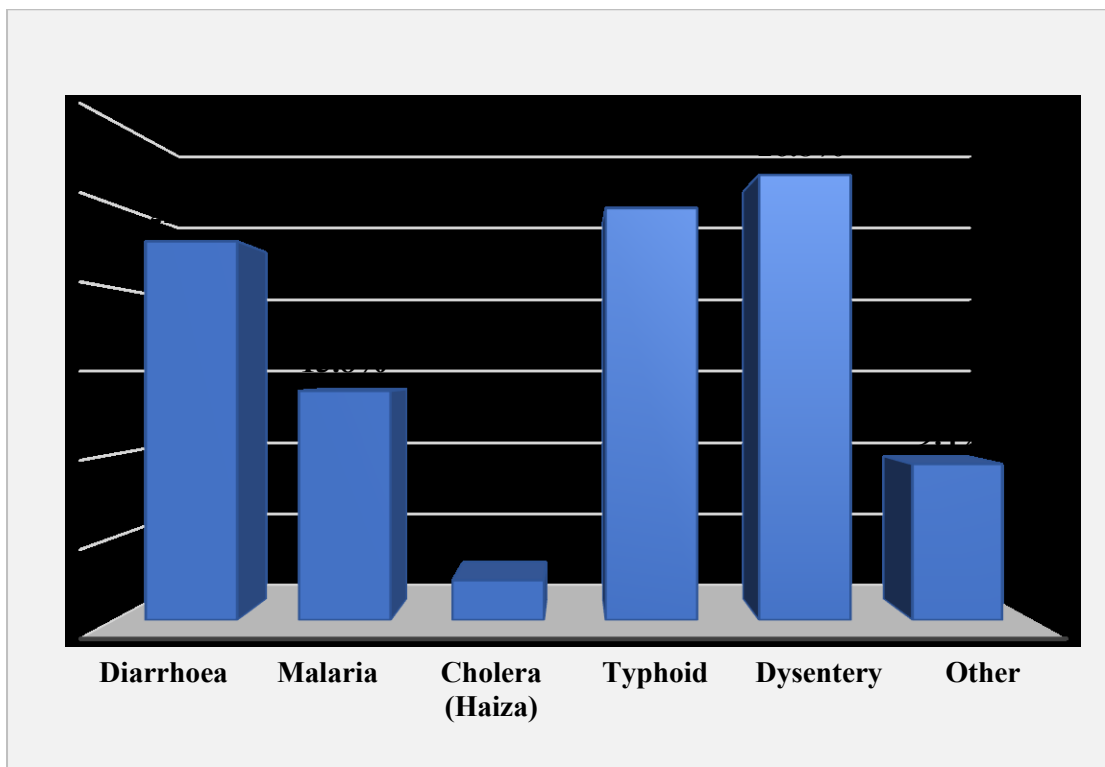
As one can see from **Figure 6.22** that 50% (250) of the total respondents said that poor sanitation leads to environmental degradation, water pollution, soil pollution, air pollution, and transmitted diseases. Of the remaining 50%, 20.4% (102) of respondents called environment degradation, 12.8% (64) said water pollution, 11.2% (56) said poor sanitation spreads diseases, 4.8% (24) said air pollution and only 0.8% (04) said that inadequate sanitation causes soil pollution. It shows that a maximum of respondents are aware that poor sanitation may lead to environmental degradation and health problems.

¹⁷⁰ Q.17. What are the major problems arising from poor sanitation facilities?

6.7.4 (r): Health Problem due to Poor Sanitation:¹⁷¹

Poor sanitation is directly linked to the transmission of diseases such as cholera, diarrhoea, dysentery, hepatitis A, Typhoid, etc. As shown in the previous **Figure 6.22** that 11.2% said poor sanitation spreads diseases. Further, **Figure 6.23** reveals that 26.8% (134) of respondents have suffered from dysentery, 24.8% (124) suffered from Typhoid, 22.8% (114) suffered from Diarrhoea. However, 13.8% (69) suffered from malaria, and 2.4% (12) suffered from cholera.

Figure 6.23: Health Problem due to Poor Sanitation

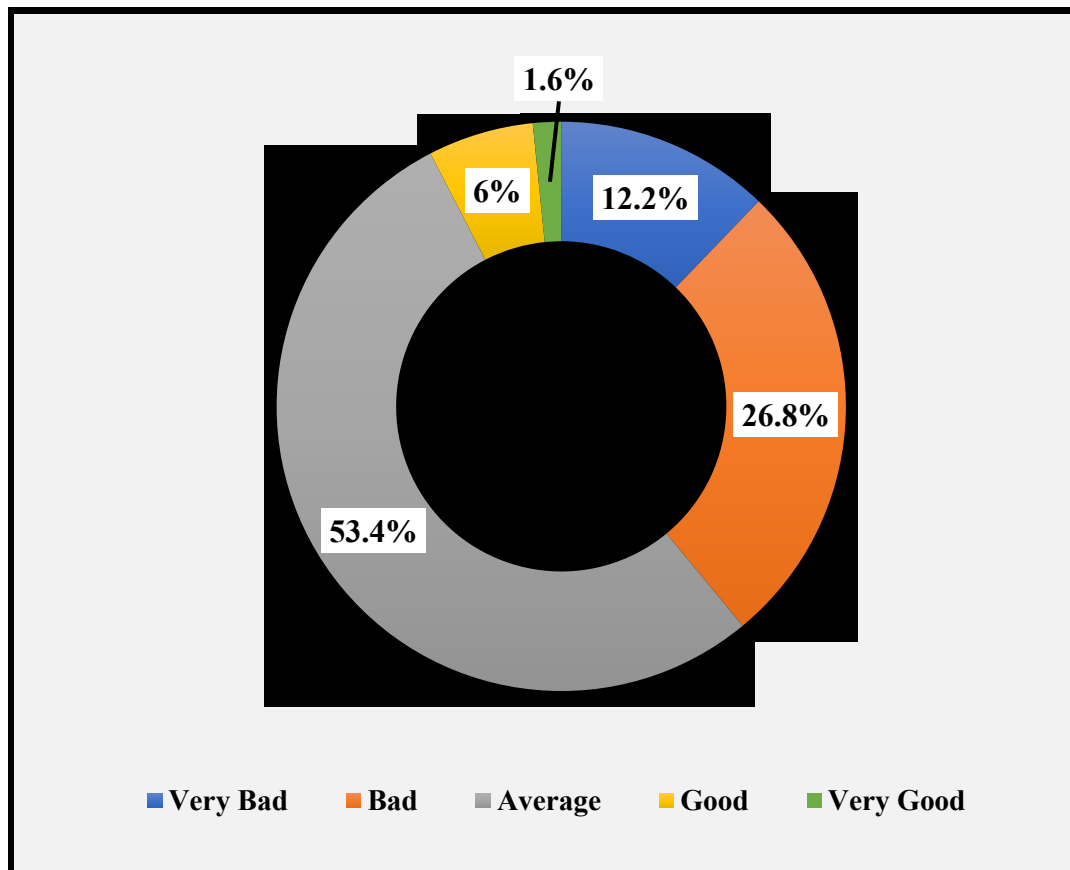


¹⁷¹ Q.18. What kind of health problem you/your family member ever suffered from poor sanitation?

6.7.4(s): Cleanliness in Locality:¹⁷²

Maintaining the cleanliness of our surroundings is also an essential part of a healthy life because it is only hygiene that helps to improve physical and mental health. **Figure 6.24** reveals that the cleanliness of the majority of respondent's area is satisfying. 53.4% (267) respondents consider it average, 26.8% (134) said it bad, and 12.2% (61) respondents said the cleanliness in their locality is very bad. It means that the government is providing sanitation facilities by which the majority of respondents are not satisfied.

Figure 6.24: Cleanliness in Locality



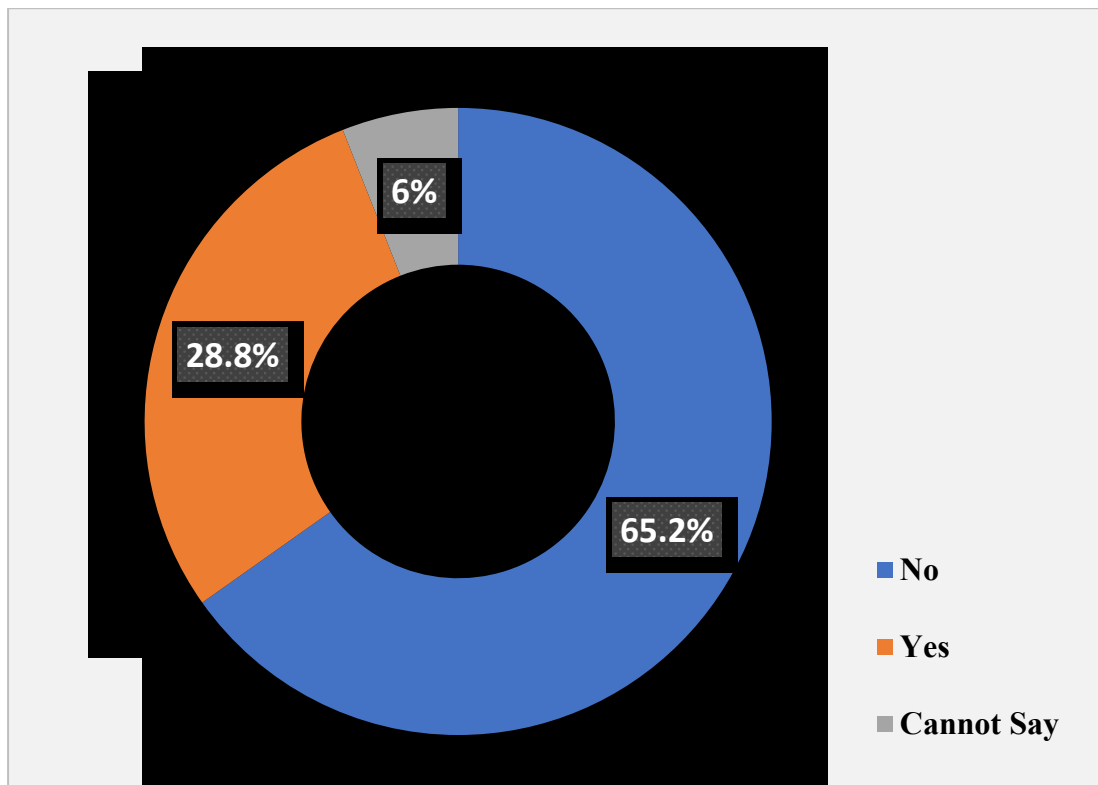
However, few people responded negatively. About 6% (30) respondents said that the cleanliness of their area is good, and 1.6% (08) people said it is very good.

¹⁷² Q.19. How would you rate the cleanliness in your locality?

6.7.4 (t): Awareness about Laws related to Sanitation:¹⁷³

The higher judiciary in India (the Supreme Court and the High Courts) has interpreted the fundamental right to life under Article 21 of the Constitution to include the right to sanitation.

Figure 6.25: Awareness about Laws related to Sanitation



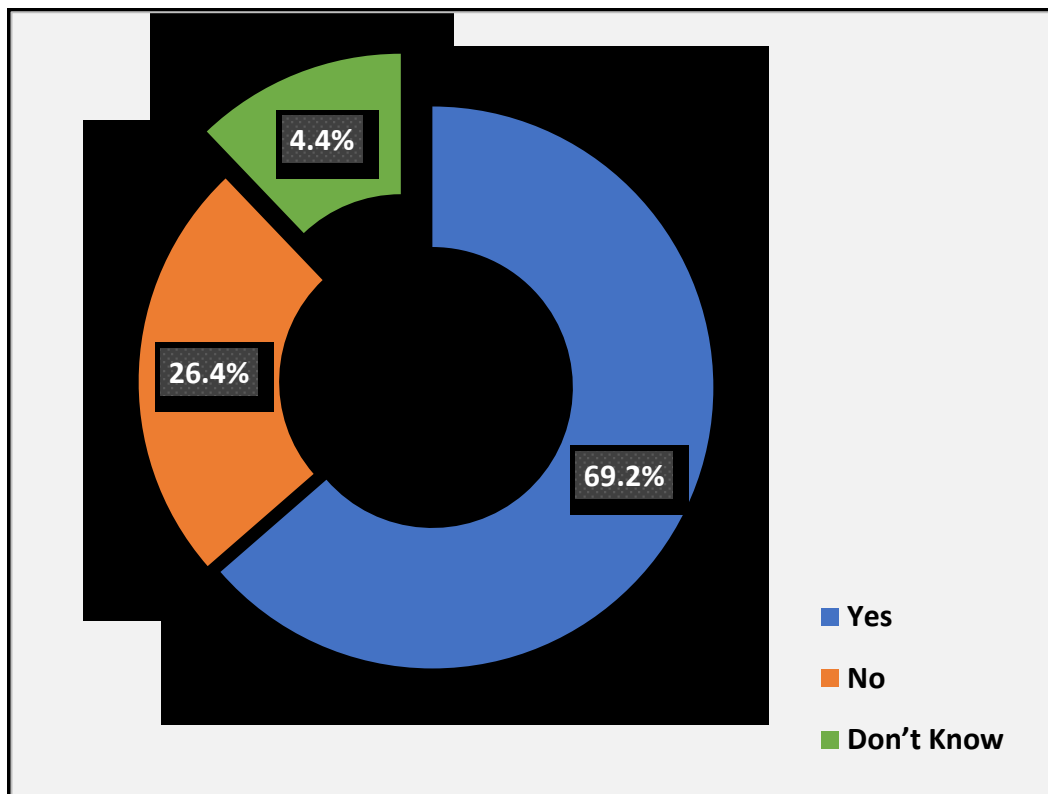
According to the Constitution, state governments have the power to adopt laws relating to sanitation. But, here the question arises, whether people know about the law made by the state on sanitation or not? **Figure 6.25** reveals that 65.2% (320) respondents do not know the law related to sanitation, although 28.8% (144) respondents responded affirmatively. However, 6% (30) of respondents said that they cannot say anything about this.

¹⁷³ Q.20. Are you aware of any laws related to sanitation in India?

6.7.4(u) Need of an Adequate law for Sanitation:¹⁷⁴

Figure 6.26 reveals that a maximum of 69.2% respondents (346) affirmed that there should be an adequate law regarding sanitation, while 26.4% of the total respondents (132) have responded negatively.

Figure 6.26: Need of an adequate Law for Sanitation



4.4% (22) respondents do not know whether there should be any law related to sanitation. It seems that either they are not aware about the need for sanitation law, or they are satisfied with the sanitation facilities being provided in their area.

¹⁷⁴ Q.21. Do you think we need adequate and comprehensive law regarding sanitation in India?

6.7.4 (v) Awareness about Duties regarding sanitation:¹⁷⁵

Sanitation is one of the fundamental responsibilities of every person. Before we expect the government to keep our city neat, clean, and health worthy, we should also keep our duties towards cleanliness in mind.

Figure 6.27: Awareness about Duties regarding sanitation

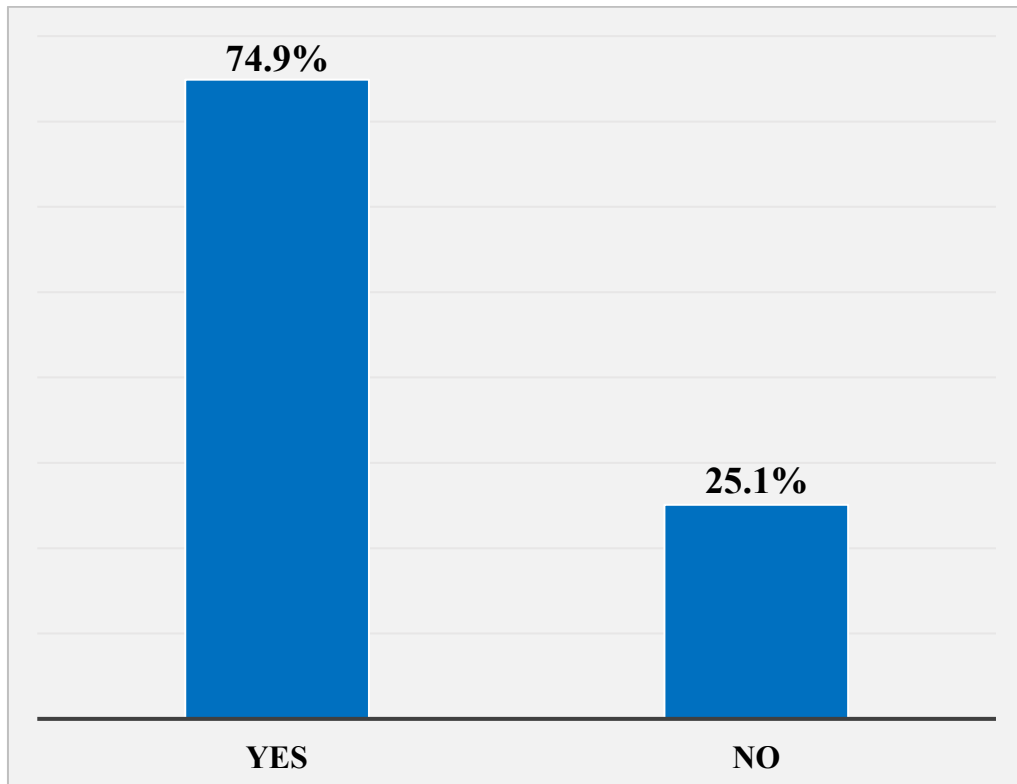


Figure 6.27 shows that 93.8% (469) of respondents are aware of their responsibilities towards cleanliness. However, 6.2% (31) do not seem aware of that, which means they believe that keeping the city clean is the sole responsibility of the government.

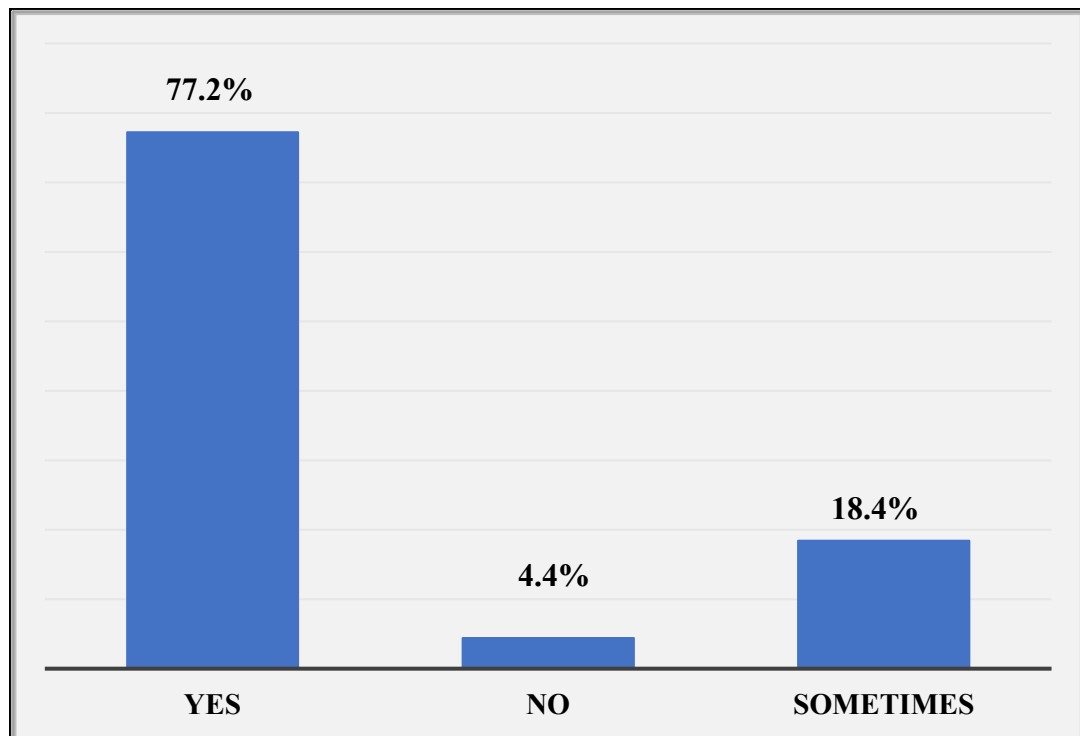
¹⁷⁵ Q.22 Are you aware of your duties regarding cleanliness and sanitation?

6.7.4 (w) Encourage others for Cleanliness:¹⁷⁶

Public awareness is necessary for sanitation. Much more important than this is to motivate the people around you to maintain cleanliness and hygiene, such as not littering the streets.

When the researcher asked the respondents about their responsibility to encourage others or neighbours for cleanliness, it is found that around 77.2% (386) of respondents agreed that they encourage others to maintain their surroundings clean. Around 18.4% (92) do this sometime but 4.4% (22) of respondents never do so.

Figure 6.28: Encourage others for Cleanliness



¹⁷⁶ Do you encourage others to maintain cleanliness and hygiene?

6.8 FINDINGS

This empirical study has been conducted to understand the nature of problems related to sanitation facilities in different parts of Lucknow city. The aim of the survey is to examine the behaviour and awareness of the people towards sanitation and cleanliness. For this purpose, the researcher has collected information through a survey with the help of a schedule and questionnaire. The findings and inferences of the study are summarised below:

- The majority of respondents are well educated and, it can be inferred that they have answered all the questions asked in the questionnaire after realizing the importance of sanitation. Therefore, about 80 percent of respondents are either very much aware or have sufficient information about sanitation.
- Among various means of media (print media and broadcast media), it is found that most of the respondents are agreed that social media platforms are more influential way for social interaction and for access to sanitation-related news, information, and other decisions makings.
- Most of the respondents reside in government-approved colonies, where the municipal corporation provides sanitation facilities. Whereas in some areas, the sanitation-related works are done by private agencies or individuals like Bangladeshi migrated persons.
- Most of the respondents have toilet facilities in their households. It means that they are living in organized colonies. However, data also shows that some of the respondents live in unauthorized colonies because, according to data, 1.4% of people defecate in open areas.
- The majority of respondents, who use the public toilet, said that the cleanliness of the public toilets is either bad or extremely bad. Only 5.8% of respondents said public toilets are cleaned. Whereas, rest of the respondents rated them average. It concludes by the data and researcher also observed that most of the public toilets in the city are not properly cleaned and are unhygienic to use. Therefore, 33.6% of respondents said that they do not use public toilets.
- Many respondents informed that the drainage systems are cleaned up regularly with some interval in their locality. However, while visiting their locality, the researcher observed that the open drains mainly were filled with garbage and dirty waterlogged in some areas.

- 73.2 percent of the total respondents said that the sewerage system in their locality is manually cleaned. However, 25.4% said that sewers are cleaned by machines.
- 88.2 percent of respondents are aware of waste segregation (separation of wet and dry waste), and only 11.8 percent have responded negatively. 48% of respondents separate wet and dry waste themselves at home, and 24% sometimes separate wet and dry garbage at their home. The rest of the respondents do not segregate waste at all.
- 42.2 percent of respondents said that waste is collected daily from their area. 28.2 percent said on alternative days, 11 percent said weekly, and 4.4 percent said that garbage collection from their area occurs once a month. However, 5.4 percent of respondents said waste is never collected. Data indicates that garbage/waste is regularly collected from households either by LMC vehicles or private sanitation workers.
- 40.6 percent of respondents dispose of their household waste in garbage vehicles run by the government, taking the garbage from door to door. About 26.8 percent give their garbage to the private garbage collector, who also takes their garbage from door to door. 26 percent of respondents throw their household waste in the locality dustbin, and 6.6 percent disposes of their garbage in another manner. It is observed that LMC has deployed garbage collector vehicles (Eco- Green vehicles) in their organised colonies. Still, many of the residents give the garbage to the private persons/ sanitation workers deployed by houses.
- The research revealed that more than half of the respondents commonly found household waste in their locality. However, 16.8 percent found Animal/Human faeces, 15.6 percent found pollutant drainage, and 4.4 percent found other kinds of garbage in their locality.
- Half respondents (53.4%) said that the cleanliness of their area is average. Only 6% of respondents said that the cleanliness is good, and 1.6% said that cleanliness in their locality is very good. It means that most of the respondents are not satisfied with the cleanliness done by LMC in their locality.
- 50 percent of the respondents are aware that poor sanitation leads to environmental degradation, water pollution, soil pollution, air pollution, and

transmitted diseases. Of the remaining 50% respondents, 20.4 percent said it causes environmental degradation, 12.8 percent said water pollution, 11.2 percent said it spreads diseases, 4.8 percent said air pollution and only 0.8 percent said it causes soil pollution. Therefore, it is observed that most people are aware of the impact of poor sanitation on human life and the environment surrounding their locality.

- Due to poor sanitation facilities, 26.8 percent of respondents suffered from dysentery, 24.8 percent from Typhoid, 22.8 percent from Diarrhoea. However, 13.8 percent from malaria and 2.4 percent suffered from cholera. Therefore, it is found that poor sanitation causes health problems.
- Most of the respondents (65%) are not aware of any law related to sanitation, whereas 28.8 percent have responded affirmatively.
- Most of the respondents (69%) have agreed that there must be a separate law relating to sanitation in India, and 26 percent have responded negatively. It means they are either not aware of the need for laws pertaining to sanitation or are satisfied with the existing sanitation policies. It shows that people do not know much about the existing sanitation-related laws of the urban local bodies. However, they are aware about the sanitation-related policies of the government. Thus, there is a need to enact comprehensive laws on sanitation and make it popular among people to realize their right to sanitation.
- Around 74.9 percent of the respondents agreed that they are aware of their duties towards maintaining cleanliness in the home and surroundings. However, it was revealed by data and observed by the researcher that in most of the residential areas, garbage is spread out. When the researcher asked the respondents about their responsibility to encourage others or neighbours for cleanliness, it is found that 77 percent agreed that they do so.

INTERVIEW WITH OFFICIALS OF LUCKNOW MUNICIPAL CORPORATION (LMC)



Nagar Swasth Adhikari



Zonal Officer (Zone 8)



Food and Sanitary Inspector (Zone 8)



Swachh Bharat Mission Office

PHOTOS OF FIELD SURVEY



WASTE MANAGEMENT BY LMC



Door-to Door Waste Collection



Waste taking for segregation



Waste segregation



Waste taking to the Dumping Yard



Private garbage collector

PUBLIC TOILET IN LUCKNOW CIT



CONCLUSION AND SUGGESTIONS

Availability of sanitation facilities has remained a major challenge for India since independence. According to census 2011, only 31 percent of rural households had access to toilets. The negative impact of this deficit was evident across India and had reflected by the high rates of stunting, malnutrition, diarrhea, and death from water-borne diseases. Indian cities are currently plagued by multiple challenges to water, sanitation, and hygiene. In 2020, 163 million people did not have access to safe drinking water, while 210 million people lack access to improved basic sanitation in India.¹The World Bank estimates that India loses around USD 53.8 billion every year due to increased health costs, loss of productivity, and reduced tourism revenue due to inadequate sanitation and poor hygiene. Within this context, there is a demand for explicit and formal recognition of the right to sanitation.² Lack of sanitation suffers the standard of adequate living of human beings, including the environment, health, dignity, etc., yet sanitation remained a neglected subject at all levels.

The Universal Declaration of Human Rights (UDHR), 1948, which comprises fundamental human rights, recognizes the right to sanitation impliedly under the provision of an adequate standard of living.³ The right to sanitation has also been recognized directly or indirectly under various international legal frameworks. It has been a part of several conventions at the international level. Moreover, Even at the national level, the right to sanitation has been recognized by many countries in their constitutions, including those countries that established it in their constitutions before

¹Available at: <https://www.downtoearth.org.in/blog/water/cities-journey-beyond-odf-india-moves-to-sustainable-sanitation-for-all-72625> (Visited on: January 12, 2021)

² Report: Economic Impacts of Inadequate Sanitation in India (2011). Available at: <https://documents1.worldbank.org/curated/en/820131468041640929/pdf/681590WSP0Box30UBLIC00WSP0esi0india.pdf> (visited on: May 21, 2017)

³Universal Declaration of Human Rights, 1948. Art.15

the UN General Assembly recognized the human right to sanitation in 2010. Human rights to water and sanitation are components of the human right to an adequate standard of living under the International Covenant on Economic, Social, and Cultural Rights (ICESCR).⁴ The Committee on Economic, Social and Cultural Rights (CESCR) has consistently recognised the right to an effective remedy for economic, social and cultural rights. Its General Comment 15 on the right to water applies equally to the human right to sanitation. It recognizes that ensuring access to basic sanitation is a core obligation emanating from the Right to Water. General Comment No. 15 also provided guidance to States on interpreting the right to safe drinking water and sanitation under two articles of the ICESCR, i.e., Article 11 (the right to an adequate standard of living) and Article 12 (the right to health). The majority of the UN General Assembly recognized sanitation as a human right that is essential for the full enjoyment of life and all human rights in July 2010.⁵ In this context, several elements were included in the definition of sanitation to realize the Right to Safe Drinking Water and Sanitation. First, the definition must consist of safe public health and the environment, meaning that toilets must be clean and prevent contact with human, animal, and insect faeces. Second, a sanitation definition must include physical access, which means that the toilet should be within the home or in the immediate vicinity of the house to maintain the physical safety of the person. Third, access to sanitation should be affordable. Affordability also means that households do not have to compromise on their ability to access essential sanitation services. Fourth, sanitation facilities should be culturally acceptable. Through this recognition, a pledge has been taken to ensure that everyone has access to safe, adequate, affordable water, sanitation, and sanitation facilities. Because their deficiency has a devastating effect on the health, dignity, and prosperity of billions of people, and it also hinders the social and economic development of the country.

International legal instruments on human rights require that states must work towards achieving universal access to sanitation goals according to the human rights principles and standards for sanitation.⁶ However, these instruments cannot provide the

⁴ International Covenant on Economic, Social, and Cultural Rights, 1966. Art.11

⁵ UN General Assembly, The Human Right to Water and Sanitation (Sixty-fourth session, 2010), UN Doc A/64/L.63/Rev.1, para. 1

⁶ Available at: https://www.sanitationandwaterforall.org/sites/default/files/2020-02/Book2_Frameworks.pdf (Visited on: March 19, 2019)

very detailed guide required for national laws because each country's circumstances regarding sanitation are different. International legal instruments do not oblige states to include the human rights to sanitation in their constitutions, nor do they stipulate that the right to sanitation must include it explicitly or implicitly. However, constitutional guarantees are highly desirable if the meaning of human rights is to be clarified within the legal framework of a country. In the absence of a clear, top-level norm, the protection and interpretation of the human rights to sanitation may vary by different actors in various laws, regulations, and policies. The Special Rapporteur on the human right to water and sanitation, Pedro Arrojo Agudo, has also pointed out that there is still a long way to go in terms of effective implementation of human rights to water and sanitation, from desirable constitutional recognition of human rights to water and sanitation to budgetary commitments.⁷

Sanitation has always been a low priority and neglected area in India. The governments have always given great importance to other issues, which have high emotional and political value. However, there has been remained silence for sanitation issues among the masses. The Constitutional guarantees of the human rights to sanitation can be either explicit or implicit and can have varying levels of detail. India provides an example of the implied constitutional guarantee of the human rights to sanitation. One of the main challenges related to sanitation has been to define the concept of sanitation and its many dimensions. In addition, the fragmentation of the sanitation sector has often hindered strategy development. Although the parliament has embraced a dynamic approach to meet the requirements of the changing society, however, to date, we do not have any distinguished legislation on sanitation. There has always been a gray area in the field of laws. That is why we do not have any specific law on sanitation till date.

While the human rights to sanitation are not explicitly mentioned in the Constitution, the case laws, settled by courts at the state and central levels, interpret Article 21 of the Constitution as the right to safe and adequate water and sanitation. The judiciary has taken commendable steps to achieve the goals related to sanitation set by the Constitution of India. The higher court showed promptness through case laws in

⁷Planning and Vision of the Special Rapporteur on the human rights to safe drinking water and sanitation, Pedro Arrojo Agudo, Report submitted to the 48th session of the Human Rights Council (September 2021) (UN DOC. A/HRC/48/50).

providing the right to sanitation to the people from time to time. The higher judiciary progressively recognized the existence of the right to sanitation as a derivative right of the right to life under Article 21. On the other hand, the implementing body of the government has shown less concern towards the implementation of guidelines related to sanitation provided by the judiciary in the case laws. They have failed to fulfill their duties effectively, thereby affecting the lives of lakhs of people.

India has to meet the Sustainable Development Goals (SDGs), 2030, including Goal 6, which talks of sustainable sanitation. The same is reflected through the programs and policies of the Central and State Governments, which have attracted the attention of the world in their efforts to provide safe sanitation services.⁸ Through Swachh Bharat Mission (SBM), India got a new thrust with a time-bound plan to improve access to toilets across the country, with a focus on total sanitation. Before SBM, India has seen a number of sanitation programs, beginning from 1986 to 2018. Neither policy could meet the set objectives nor sustain the outcomes. On October 2nd 2014, the Central Government launched the Swachh Bharat Mission (SBM) with the objective of ensuring universal sanitation coverage by October 2, 2019, the Mahatma Gandhi's 150th birth anniversary. SBM is focused and comprehensive. It mandates that no household will defecate in the open, no insanitary latrines should be constructed, and existing pit latrines be converted into sanitization latrines. In addition, the practice of manual scavenging should be abolished, and modern and scientific methods should be adopted for solid waste management. However, the SBM lacked discussion about the sustainable management of toilets, which is necessary to achieve the object of SDG Goal 6.

The launch of SBM 2.0 focuses on the next set of related and important outcomes for safe sanitation, i.e., making Indian cities a garbage free. Undoubtedly, the launch of the Swachh Bharat Mission in 2014 has served as a new catalyst for sanitation development in India. However, the success in this area has been uneven and inequitable. Nevertheless, in October 2019, the Government of India declared India open defecation free. It has also been announced that toilets have been provided to over

⁸Available at: <https://www.downtoearth.org.in/blog/water/cities-journey-beyond-odf-india-moves-to-sustainable-sanitation-for-all-72625> (Visited on: January 12, 2021)

600 million people of India by constructing 110 million toilets in 60 months.⁹ In December 2019, about six million villages, 633 districts (90.7% of all districts), and 35 states/UTs were verified as Open Defecation Free.¹⁰ However, the claim that India is 100 percent open-defecation-free raises many questions. A Joint Monitoring Program (JMP) on Water, Sanitation, and Hygiene, released by the World Health Organization and UNICEF on July 1, 2021, states that at least 15 percent of the total population in India defecates in the open. One percent urban and 22 percent rural population in the country defecate in the open.¹¹ From this, it comes out that there is a lot of contrast between the government data and the survey data done by various agencies. Adequate sanitation facilities still do not reach to all the people. Even now, achieving complete sanitation is proving to be a far cry. It is well known that sanitation is a state as well as a local issue. Apart from the government, the people of villages and towns themselves are also responsible for the maintenance of sanitation in their homes and areas and the use and maintenance of sanitation infrastructure.

After analyzing the different international legal instruments, national legal framework, policy decisions, and various Indian and Foreign courts' judgments, the researcher has arrived at some conclusions. Therefore, the chapter-wise conclusion of the research work is as follows:

Chapter I is the introductory part of this research study. It illustrates a brief outline of the study that puts a simple understanding of the topic. In addition, this chapter includes a statement of the research problem, the main objectives of the research study, a review of literature, hypotheses, and scope of the study that have been proved through empirical research with the help of the scheduled/ questionnaire method. Significantly, this research work is based on empirical research. The tool of data collection, sample size, and research methodology is also provided in this chapter. Thus, the introductory part of this research work emphasizes on technical construction of the thesis.

Chapter II deals with the historical development of the right to sanitation in India. The purpose of this chapter is to examine the evolution of sanitation conditions

⁹Kairvy Grewalon, 'World Toilet Day, a look at India's sanitation data and the ground realities,' *The Print*, November 19, 2020.

¹⁰The Government of India, *SDG-India: Index and Dashboard 2019-2020* (NITI Aayog, 2020).

¹¹Shivangi Agarwal, 'Is India really open-defecation-free? Here's what numbers say,' *Down to Earth*, July 13, 2021.

in the ancient, medieval, and modern eras. The history of sanitation has run parallel to the history of cities and urban life. From the Indus Valley Civilization to British India, India has seen systematic arrangements of sanitation practices of several civilizations and royal dynasties. The Indus Valley Civilization showed early evidence of public water supply and sanitation. Civilization's system that society developed and managed, included many advanced features of sanitation facilities that we observe as similar to the modern one. The cities of Harappa, Mohen-Jo-Daro, and Rakhigarhi show the earliest evidence of the world's first urban sanitation system. These cities were built according to a highly sophisticated plan. It shows that the Harapan people had a very high civic sense of health and sanitation. Mohan-jo-Daro was the most advanced city, with a lavatory built into the outer walls of the houses. The Great Bath of Mohan-jo-Daro might be the first of its kind in the pre-historic period.

After the fall of Harappa, a drain-linked toilet was found in the *Kushana* period. Subsequently, the dark era of open defecation began in India and has acquired deep cultural and social roots over the centuries. Many historians believe that with the arrival of the Aryans, open defecation also entered into the Indian psyche. The Aryans were a nomadic wandering tribe who would never have settled, built a house, or felt the need to build toilets. After the passing of few more centuries, open defecation became uncontrolled. Some better sanitation facilities have been seen in the Maurya, Gupta, or Vijayanagara dynasties. However, once again, the construction of toilets started taking place after the arrival of Arab traders and Mughal caravans. Arab traders and Mughal kings build toilets on their premises due to concerns about their women being exposed while defecating. But these were dry latrines that required someone else to do the dirty cleaning job. Consequently, a class of manual scavengers was emerged in India to clean up the mess of the kings and their queens. After that, it became a formal profession, particularly for those who were made captives after their defeat. However, these prisoners were not accepted by society when they were freed. Thus they formed a separate caste and continued the work of manual scavengers.

With the onset of colonial rule, sanitation ceased to be a national priority. There was no attempt to create social awareness in public against open defecation and its dangerous consequences. The first genuine attempt to deal with sanitation in India was the result of the report of the Army Sanitation Commission of 1859–63. After that, in 1859, the Royal Commission on the State of Sanitation of the Army in India was

appointed. In 1863, the Commission reported that the health and sickness of British soldiers are linked with poor sanitation. On the recommendations of the Royal Commission of 1859, sanitary commissions for public health were formed in Bombay and Madras Presidencies in 1864. Still, they were only able to "consult and advise" as they had no executive powers.

Public Health and Sanitation became effective with the passage of the Sanitary Act, 1866. The Act made it mandatory for local authorities to improve sanitation conditions and remove nuisances for public health. But in the 1870s, it was still not decided among British officers and sanitary officers that what kind of excrement would be most applicable in British Indian cities. Sadly, the colonial interest in public sanitation remained restricted to the needs of the military and the elite rather than the whole population. Finally, in 1885, the Local Self-Government Act was passed, and local bodies came into existence, which was responsible for sanitation at the local level. Various social reformers of India prioritized access to facilities for sanitation. They all led various campaigns focusing on the importance of cleanliness. Whether it be the philosophy of Patanjali, the teachings of Vivekananda, or the Gandhian concept of cleanliness, sanitation was given utmost importance in the history of India.

After independence, most Indians did not have access to basic facilities. This failure occurred because the governments continued to follow colonial urban planning practices on a large scale, ignoring the need for basic amenities related to housing for local people. The history of sanitation has been parallel to the history of cities and urban life. High-density population places could only rise to new levels when developments in sanitation were possible. Keeping in mind the importance of sanitation on a nationwide basis, the Bhore Committee was established in 1946. The committee was later given priority in national development plans. Later, the Central Government appointed the Environmental Sanitation Committee in 1948–49. It was the first agency of its kind to be charged with an overall assessment of country-wide problems in the entire field of environmental sanitation. The committee recommended a comprehensive plan to provide water supply and sanitation facilities within a period of 40 years. To implement the recommendations given by Bhore Committee and Environmental Hygiene Committee, the Government of India, Ministry of Health, inaugurated National Water Supply and Sanitation Programme in 1954 under the First Five Year

Plan (1951-56). This Programme aimed to provide water supply and sanitation facilities to all urban and rural communities.

A thrust for water supply and sanitation came with the Sixth Five Year Plan (1980-85), which coincided with the beginning of the UN-declared International Drinking Water Supply and Sanitation Decade. India had pledged to provide 100 percent sewerage and sewer facilities. In 2014, the central government identified open defecation as a priority issue across India, not just in villages, and launched a Swachh Bharat Mission (SBM) or Swachh Bharat Abhiyan (SBA) to eradicate it by 2019. For the first time, the government of India has adopted positive approaches towards sanitation practices, and sanitation became a national priority and subject of conversation across the society.

Chapter III provides the brief provisions of various international legal frameworks that deal with the right to sanitation. In 2010, the right to sanitation was recognized as a human right. The move for making sanitation a human right means that we can directly address the particular human rights challenges associated with sanitation. Before 2010, sanitation was considered along with water under the various international human rights laws. As a result, more attention was given to the right to water, and the right to sanitation was ignored. The importance of sanitation was further raised in the International Drinking Water Supply and Sanitation Decade from 1981 to 1990. An effort to recognize a separate sanitation right began with the initiative of the United Nations Special Rapporteur (Catarina De Albuquerque) on Human Rights to Drinking Water and Sanitation. The Special Rapporteur argued that sanitation is a separate right due to its specific dignity dimensions, so it should be considered an individual right.

The International Covenant on Economic Social and Cultural Rights (ICESCR), 1966 is perhaps the most important legal instrument in the context of recognizing the human right to sanitation. Article 11¹² of the ICESCR includes many rights including the right to sanitation broadly. Many international human rights treaties have recognized the importance of water and sanitation (separately or together) in the realization of human rights. However, they did not provide the right to sanitation

¹²Article 11 of the International Covenant on Economic Social and Cultural Rights, 1966 provides the right to an adequate standard of living.

explicitly but under the provision of an adequate standard of living. In 2010, the United Nations General Assembly formally recognized the right to water and sanitation as a human right by its resolution. The resolution called upon the States and international organizations to help capacity building and technology transfer to the countries, particularly the developing countries, to provide **Sufficient, Safe, Acceptable, Physically Accessible, and Affordable** drinking water and sanitation for all. In 2015, the UN General Assembly adopted another resolution that specifically recognises the human rights to drinking water and sanitation. This resolution is significantly different from the previous resolutions because it recognises the right to water and the right to sanitation as separate rights instead of recognising the right to water and the right to sanitation together as a single integrated right. The Government of India has not only signed ICESCR in April 1979, but in the year 2010, it has further confirmed its commitment by voting in favour of a specific UN resolution that explicitly recognized the right to sanitation. Not only at the international level, India has also been a supporter of the articulation of the right to sanitation at the regional level (for example, South Asian Conference on Sanitation (SACOSAN)).

The emergence of the right to sanitation as a distinct right can be justified on various grounds. First, explicit legal recognition of the right to sanitation will make it a legal entitlement rather than a moral priority. Second, a legal entitlement provides opportunities for the right holders to make duty bearers accountable. Third, vulnerable and marginalized groups would get priority attention.¹³ In short, recognizing the right to sanitation can serve as a legal and political tool to be used to improve access to sanitation facilities significantly. At the same time, the state must take steps to ensure the 'progressive realization' of the right to sanitation. This means the state should understand the interdependence of sanitation with other human rights and make the meaningful realization of the right to sanitation. Poor sanitation or no access to sanitation often occurs in the context of other human rights violations and reduces their effects. Léo Heller,¹⁴ UN Special Rapporteur on the human rights of safe drinking water and sanitation, said that “having sanitation as its own right means that there can be a

¹³ Sujith Koonan, 'Right to Sanitation in India: Nature and Scope', *International Environmental Law Research Centre* (IELRC), p 1-14 (2016). Available at: <http://www.ielrc.org/content/a1608.pdf> (visited on: September 08, 2018)

¹⁴ Henry F. Carey, The Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation: An Assessment of Its First Dozen Years, vol. 16(2) *Utrecht Law Review*, pp.33–47 (2020).

change in approach and understanding, demonstrating that sanitation is not solely tied to water. It gives people a clearer perception of the right, strengthening their capacity to claim this right when the State fails to provide the services or when they are unsafe, unaffordable, inaccessible, or with inadequate privacy.”¹⁵

According to COHRE, ‘without the recognition of the right of all people to gain access to safe, sustainable and sufficient, affordable water and sanitation services, it will be almost impossible to deliver on the right to water and sanitation.’¹⁶The year 2020 marks the tenth anniversary of the landmark resolution adopted by the General Assembly in July 2010, which “recognized the right to safe and clean drinking water and sanitation as a human right that is essential for the full enjoyment of life and all human rights.” The Resolution called upon the States and international organizations to help capacity building and technology transfer to the countries, particularly the developing countries, to provide sufficient, safe, acceptable, physically accessible, and affordable drinking water and sanitation for all. In 2013, the United Nations General Assembly declared November 19 as World Toilet Day to tackle the global sanitation crisis. The aim of this is to raise awareness among people about how poor sanitation can kill the public and damage the economy. It also aims to achieve Sustainable Development Goal-6, which promises ‘Sanitation for all’ by 2030.

Over the last ten years, millions of people have gained access to clean water and decent toilets. Nearly half of the world’s developing countries have amended their constitutions to include water and sanitation as human rights. However, there is still a long way to go as millions of people are still being forced to live without access to these basic services due to a lack of resources and technologies and the inequitable power relations that exist in our world.¹⁷ In the year 2019, the COVID-19 pandemic has made evident the critical importance of availability, accessibility, and affordability of water, sanitation, and hygiene services in the efforts for global health. During the Corona Virus Disease 2019 (COVID-19) outbreak, it was realized that safe water, sanitation, waste

¹⁵Leo Heller, UN Special Rapporteur on the human rights of safe drinking water and sanitation, 30 December, 2015. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22375> (visited on: February 18, 2019)

¹⁶COHRE, UN-HABITAT, WATERAID, SDC, SANITATION: A HUMAN RIGHTS IMPERATIVE (2008). Available at: www.ohchr.org (visited on: September 06, 2020)

¹⁷Léo Heller, UN Special Rapporteur on the human rights of safe drinking water and sanitation, 30 December 2015. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22375> (visited on: March 18, 2019)

management, and hygienic conditions are essential for human health and safety. The importance of sanitation was well realised during this pandemic period. The World Health Organization's (WHO) guidance on the safe management of drinking water and sanitation services has provided to be effective in this COVID-19 pandemic.

Thus, we can say that the declaration of the Human Right to Sanitation as a separate right itself cannot transform the world immediately. However, the initiatives of proper social movements, changes into States' legal frameworks, the binding obligations of international law, judicial stances concerning new legal regulations, and the new stances of service providers may create a favourable environment for the attitude towards sanitation in a changing society.

Chapter IV deals with the **Laws and Policies related to Sanitation and the Role of the Indian Judiciary**. It consists of constitutional provisions, statutes and schemes, programs, administrative direction, etc. This chapter is divided into four parts. The first part of the chapter provides the constitutional provisions regarding sanitation because, primarily, the legal basis for the right to sanitation can be found in the Constitution of India. However, the Constitution does not recognize the right to sanitation explicitly. However, sanitation has been found indirectly in different provisions. In the second part, there is a multiplicity of legal instruments, addressing some parts of the sanitation sector with a narrow understanding of sanitation. The third part of the chapter deals with the judicial pronouncement of the higher judiciary (Supreme Court and High Courts) related to sanitation facilities. And the fourth part provides the administration directions and policies related to sanitation.

Under the Constitution of India, the right to sanitation has been included implicitly in two different ways. **First**, since the mid-1980s, the Higher Judiciary has recognized the existence of the right to sanitation as a fundamental right, derived from the right to life under Art. 21. In **Virendra Gaur vs. the State of Haryana**, and **L.K. Koolwal vs. the State of Rajasthan**, the Supreme Court stated that “*Art. 21 protect the Right to Life as a Fundamental Right. Enjoyment of life and its attainment, including their right to life with human dignity, encompasses within its ambit, water, and sanitation, without which one cannot enjoy life.*” The right was thus firmly established in India. **Second**, since its adoption, the Constitution of India has included a fundamental right that does not mention the word sanitation but is an integral part of

Article 17 (Abolition of Untouchability), which is associated with the practice of manual scavenging.

Sanitation is a state subject under the Constitution of India. It means that States have the primary duty to maintain sanitation. **Entry-6** of List II (State List) under Seventh Schedule of the Constitution provides 'public health and sanitation, hospitals and dispensaries.' **Entry 23 of the Eleventh Schedule** also provides for health and sanitation. It means that at the village, intermediate, and district levels, Panchayats have the primary duty to deal with the sanitation problems. The Twelfth Schedule has also lists the functions, which a State Legislature may by law, assign to the Municipalities. **Entry 6 of the Twelfth Schedule** provides for 'public health, sanitation conservancy, and solid waste management.' Thus, both the 73rd and 74th Constitutional Amendments have done a tremendous job of decentralizing the decision making power from top to bottom and taking this sanitation derive to the grassroots level. Further, the Supreme Court had made it clear that municipalities could under no circumstance refuse to fulfil their statutory duties. If the Government fails to perform its duties to provide adequate sanitation facilities, that will amount to a violation of Article 21, and a person can enforce their rights by a writ petition under Article 32.¹⁸

The second part of the chapter deals with the various legislative statutes that include sanitation intervention. However, there is no specific legislation that directly mentions the right to sanitation. Also, there is no any law that generally includes sanitation.¹⁹ There is a multiplicity of legal instruments addressing some parts of the sanitation sector with a narrow understanding of sanitation. These include the Water (Prevention and Control of Pollution) Act, 1974, the Environment Protection Act, 1986, the Solid Waste Management Rules, 2016, which gives powers to the state pollution control boards to take appropriate action regarding sewage treatment and its disposal. There are such other legal instruments in which sanitation is mentioned only as access to the toilet. Such legislations are the Mines Act, 1952, the Factories Act, 1948, the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, The Contract Labour (Regulation and Abolition) Act, 1970, the Right of Children to Free and Compulsory Education Act, 2009, the Rights of Persons

¹⁸ Municipal Council, Ratlam vs. Vardhichand, AIR 1980 SC 1622

¹⁹ Phillippe cullet, Sujith Koonan, *et al.* (eds), *The Right to sanitation in India: Critical Perspective* (Oxford University Press, New Delhi, 2019)

with Disabilities Act, 2016, etc. These laws make mandatory provisions to provide sufficient, conveniently situated, and accessible latrines. Other two manual scavenging acts, i.e., the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 and the Prohibition of Employment as Manual Scavengers and Their Rehabilitation Act in 2013, are related to the realization of the rights for sanitation workers. These laws are essentially about sanitation, but they address the subject from a different angle. The purpose of these acts is to eradicate the practice of sanitation (manual removal of human excreta), which violates the prohibition of untouchability enshrined under Article 17 of the Constitution. Thus, we can say that there is no legislative instrument that lays down the broad framework of principle that guides the sanitation sector as a whole. Hence, it proves the **2nd Hypothesis** of the present research study that India lacks specific legislation related to sanitation. Further, the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973 impose criminal liability upon a person who creates a public nuisance. The public nuisance includes sanitation impliedly.

Since the sanitation is a state subject, so the statutory provisions relating to sanitation are found in the state laws. Decentralization is made effective by these laws, and local authorities, municipalities, and panchayats deal with tasks and responsibilities related to sanitation. Thus, existing local laws make a significant contribution to the regulation of sanitation in a general sense. However, they are limited in focusing their focus on the responsibilities of local bodies concerning sewage and drainage disposal and construction of toilets, rather than taking sanitation as a holistic issue. In addition, the right to sanitation is designed around the rights of individuals, but local laws focus on infrastructure that can affect individual rights.²⁰

The higher courts made significant contributions to the development of sanitation law. The Indian Supreme Court's existing jurisprudence on Water, Sanitation, and Hygiene can be considered to be an outcome of years of evolution. A consistent result of the wide jurisprudence on sanitation is to provide a comprehensive position of sanitary rights, despite not being covered under the chapter of Fundamental Rights of the Constitution. It appears that the judiciary has, over time, adopted various

²⁰ Phillippe cullet, Sujith Koonan, *et al.* (eds), *The Right to sanitation in India: Critical Perspective* (Oxford University Press, New Delhi, 2019)

approaches in recognizing and protecting the citizens' right to access to drinking water and sanitation.²¹

Access to adequate sanitation is closely related to other fundamental rights, such as environment, health, and human dignity. The Supreme Court of India also recognized the inherent link between sanitation and pollution-free water and the environment and their need to enjoy the right to life, including the concept of life with human dignity.²² A large number of poor people and marginalized sections of our population experience loss of dignity every day due to being deprived of sanitation facilities in rural and peri-urban areas. Open defecation threatens the dignity of women in India. Women are forced to relieve themselves in the dark only to protect their dignity and privacy. During this process, they are more likely to be victims of humiliation and sexual assault. The second concern pertaining to sanitation is the issue of basic human dignity in the case of manual scavengers and sanitation workers. In 2003, the Safai Karamcharis Andolan (SKA) filed a petition in the Supreme Court, and asked for proper implementation of the Employment of Manual Scavengers and the Construction of Dry Toilets (Prohibition) Act, 1993. The SKA also asked the court to declare the practice of manual scavenging as a violation of the right to equality and the right to life.²³ Consequently, the Supreme Court of India has ruled that the continuance of manual scavenging in the country is a gross violation of Article 17 of the Constitution of India by which, "Untouchability is abolished, and its practice in any form is prohibited".²⁴ Therefore, the link between the right to sanitation and the right to life and dignity has been established.

Similarly, inadequate sanitation is a major cause of disease worldwide, and improving sanitation is known to have a significant beneficial impact on health both in households and across communities. Even after several decades of independence, India has failed to achieve the requisite cleanliness standard in cities. We use to see open garbage dumps, overflowing drains, and open defecation taking place at numerous places. According to WHO report, inadequate sanitation causes 432000 diarrheal deaths

²¹ M. P. Ram Mohan & A. Dulluri, 'Constitutional mandate and Judicial initiatives influencing Water, Sanitation, and Hygiene (WASH) programmes in India', *Journal of Water, Sanitation and Hygiene for Development* (2017)

²² Virender Gaur v. State of Haryana, (1995) 2 SCC 577.

²³ Safai Karamchari Andolan and Ors. V. Union Of India And Ors., 2014(4) SCALE165.

²⁴ *ibid*

annually and is a major factor in many neglected tropical diseases, including intestinal worms, schistosomiasis, and trachoma. Poor sanitation also contributes to malnutrition.²⁵ In the case of **K.C. Malhotra vs. State of Madhya Pradesh**,²⁶ the High Court of Madhya Pradesh recognized a link between the right to health and sanitation. In the Ratlam Municipal Council case, citing the state's duty to improve public health under the Directive Principles of State Policy (Article 47), the court ordered the municipality to first complete basic sanitation and public health projects.²⁷ The Supreme Court recognized the right to sanitation as an inherent right under the right to health in **Consumer Education and Research Centre vs. Union of India**.²⁸

An important aspect of a rights-based approach to water and sanitation is environmental protection against pollution. In **M. C. Mehta vs. Union of India**,²⁹ the Ganga pollution case, the municipalities were directed to perform their statutory duty of ensuring that sewage from the towns would not be emptied into the Ganga without treating it. The problem of solid waste management was also understood to be a municipal responsibility, which involves a significant degree of environmental regulation and management. In the case of **Virendra Gaur and Others vs. State of Haryana**,³⁰ the Supreme Court has observed that a hygienic environment is an integral facet of the right to a healthy life, and it would be impossible to live with human dignity without a humane and healthy environment. The case of **L. K. Koolwal vs. State of Rajasthan and Others**³¹ is another example of judicial activism in sanitation, public health, and environment protection. Similarly, **The Almitra Patel vs. Union of India**³² case is related to the legal aspects of waste management in India. Thus, recognizing this connection, the judiciary has incorporated relevant principles of environmental justice into its jurisprudence of water and sanitation rights. Therefore, it is clear that poor sanitation, directly and indirectly, affects the environment, health, and human dignity of a person. Also, the Indian judiciary has played a significant role in the interpretation of the right to sanitation. The higher judiciary not only established the relation of

²⁵WHO Fact Sheet, Sanitation, 2019. Available at: <https://www.who.int/news-room/fact-sheets/detail/sanitation> (visited on: July 15, 2020)

²⁶AIR 1994 MP 48.

²⁷ Municipal Council, Ratlam v Vardhichand 1980 AIR 1622, 1981 SCR (1) 97.

²⁸(1995) 3 SCC 42.

²⁹ A.I.R. 1988 S.C. 1115.

³⁰ (1994) 2 SCC 577

³¹ AIR 1988 Raj 2

³² Writ Petition No. 888 of 1996 (Supreme Court of India, Order dated 11 January 2000)

sanitation with other fundamental rights but also gave sanitation the status of a fundamental right under Art 21. Hence, this study proves **1st and 3rd Hypotheses** of the research work.

Lastly, the jurisprudence of the courts on sanitation can flourish only when it is properly implemented. Former Supreme Court judge Justice Madan B. Lokur also said that ‘there was a lack of implementation of laws and court orders for the realization of the right to sanitation for all in the country.’ He further said that an area that needed to be looked at when sanitation is concerned was the prosecution aspect of the law.³³

The gap in the legal framework related to sanitation has been filled by government policies. A statutory framework laying down principles and norms to be followed needed to guide the implementation of sanitation programmes and policies. The Government of India launched the Integrated Low-Cost Sanitation Scheme in 1980-81, the Central Rural Sanitation Programme (CRSP) in 1986, the Total Sanitation Campaign (TSC) in 1999, the Nirmal Gram Puraskar in 2003, and the Nirmal Bharat Abhiyan in 2012, for rural sanitation. The nodal agency for rural sanitation is the Ministry of Drinking Water and Sanitation. For urban sanitation, the Government of India launched the Jawaharlal Nehru National Urban Renewal Mission in 2005 and The National Urban Sanitation Policy in 2008. Urban sanitation is the responsibility of the Ministry of Urban Development. In 2014, to accelerate the efforts for achieving universal sanitation coverage and obtain the Sustainable Development Goal 6 (SDG 6) by 2030, the Swachh Bharat Mission was launched by the Government of India. The mission has two thrusts, Swachh Bharat Abhiyan (Rural) and Swachh Bharat Abhiyan (Urban). India has been a strong policy framework to tackle the sanitation challenge, but this does not translate into improved coverage in the entire country. Coverage figures alone do not give the whole picture, as the actual use of the facilities and sustained behaviour change are crucial elements for reaching the desired goals.

All key norms and principles such as the right to sanitation, decentralization principle, women’s right and dignity, as well as linkages between manual scavengers and sanitation should be specifically mentioned in the statutory framework. This would facilitate legal control of the implementation of sanitation programmes and policies. Such a framework law also provides an opportunity to the people to challenge policy

³³ Editorial, “Right to sanitation lacks implementation of laws,” *The Hindu*, July 11, 2019.

implementation in case of violation of legal norms and principles. In the absence of a legal framework, the policy implementation in the sanitation sector goes unchecked and unchallenged. This is not a welcome situation as far as a crucial sector like rural sanitation is concerned.³⁴ We may have good laws, Supreme Court judgments, or policies, but if the government does not implement it, there is no point in making it.

Chapter V deals with the **Role of Civil Society and Public Responsibility in Sanitation**. This chapter indicates that sanitation is a topic that requires serious concern by the government and the private sector, including civil society organizations (CSOs), communities, and individuals. For which they need improved capacities and appropriate technologies. India has witnessed many social reformers who have started the sanitation movements on its own. For instance, Mahatma Gandhi used to dream of a country where no one spits or clears his nose on the road because it would infect others. Those who chew betel nuts and tobacco and spit here and there do not give any thought to others' feelings. Gandhi actively participated in cleanliness activities and broke all the barriers of casteism. Following Gandhiji's hygiene principles, many people have done unique work in sanitation. Among those, Mahatma Gandhi, Dr. Babasaheb Ambedkar, Sant Gadge Baba, and Suryakant Parikh, Dr. Bindeshwar Pathak, and Bezwada Wilson are the prominent ones. These social reformers have waged a campaign of manual scavenging, public awakening for sanitation and health improvement, drainage of toilets, cleaning toilets and bathrooms, etc. Keeping in mind the ideology of Mahatma Gandhi and paying homage to him on his 150th birth anniversary, the Government of India had started the Swachh Bharat Mission on October 2, 2014, to build a clean and open defecation free India, and this programme continues till October 2, 2019.³⁵ In 2019, the Union Cabinet, chaired by the Prime Minister, has approved the second phase of the Swachh Bharat Mission (Gramin) [SBM (G)] from 2020-21 to 2024-25. This programme would focus on open defecation free (ODF plus), including ODF sustainability and solid and liquid waste management (SLWM). The program will also work towards ensuring that no one stays behind and

³⁴Sujith Koonan, 'Realization the Right to Sanitation in Rural Areas: Towards a New Framework', International Environmental Law Research Centre, p.7 (2012)

³⁵The Government of India, PM dedicates a Swachh Bharat to Bapu and the people of India (Ministry of Jal Shakti, 2019)

everyone uses the toilet.³⁶ People's involvement has made the Swachh Bharat Mission a people's movement. Students, Swachhagrahis, civil society, corporate social responsibly, media, etc., have carried the message of 'Swachhata Hi Seva' to the masses. Swachhata Pakhwada, awareness campaigns, monitoring through swachhata Sarvekshan, and star rating for garbage-free cities are gradually bringing about behavioural change.³⁷ Core ministries like Health, Women and Children Development, Railways, Rural Development, petroleum, Housing, and Urban Affairs are making all-out efforts to address the sanitation issues. They are working on the sanitation value chain of water supply, safe disposal and treatment of waste, and infrastructure maintenance in the sanitation sector.³⁸

The sanitation sector needs to mobilize people's participation at the micro-level and relevant institutions to mobilize people's involvement at the macro level. Currently, the sanitation sector requires collaborative efforts by the government, non-governmental organizations, community-based non-profit organizations, and the corporate sector. In this multi-agency partnership, each agent has a different role to perform. The people's participation at all stages of the sanitation process, i.e., from the conceptualization to implementation of a sanitation policy, would help in creating sustainable sanitation services.³⁹ There is a consensus that public, private and civic roles are crucial for growth and development of effective sanitation system in the country. In particular, India has a large network of civil society organisations or non-governmental organisations (NGOs) involved in policy development programs. They are in a position to articulate the needs of the people and communicate the same to the government and the policymakers for creating public policies.⁴⁰ Non-Governmental Organizations play a vital role in making people aware of their civic rights and duties under the sanitation sector. At the global level, the World Bank helps countries to address sanitation-related challenges, such as eliminating open defecation, improving service delivery. With some

³⁶ Cabinet approves Swachh Bharat Mission (Grameen) Phase-II (Press Information Bureau (PIB), 2020). Available at: [https://pib.gov.in/PressReleasePage.aspx?PRID=1603628#:~:text=The%20Union%20Cabinet%2C%20chaired%20by,Liquid%20Waste%20Management%20\(SLWM\).](https://pib.gov.in/PressReleasePage.aspx?PRID=1603628#:~:text=The%20Union%20Cabinet%2C%20chaired%20by,Liquid%20Waste%20Management%20(SLWM).) (visited on: June 19, 2020)

³⁷ Swachhata- A Way of Life (editorial), *YOJANA*, November 2018.

³⁸ *ibid*

³⁹ Sujith Koonan, 'Realization the Right to Sanitation in Rural Areas: Towards a New Framework', *International Environmental Law Research Centre*, p7, (2012)

⁴⁰ Putri et al., 'Community Participation In Sanitation Kampung Program, Surakarta', 2(3), *Journal of Health Promotion and Behaviour*, pp. 257-271 (2017)

core development partners, including the Bill & Melinda Gates Foundation, WaterAid India, India WASH Forum, Plan International, etc., the World Bank is providing access to sanitation facilities, such as waste management and sustainable sludge management. In India, Sulabh International Social Service Organization, Khushii, Sikashana Foundation, Dasra, etc., are some major NGOs in the WASH sector. NGOs are often key partners in the effort to bring better water supply and sanitation services to low-income neighbourhoods.⁴¹

The private sector has also been given a responsibilities related to sanitation which is known as Corporate Social Responsibility (CSR). The Ministry of Corporate Affairs had formulated the provisions of the Corporate Social Responsibility Policy, which prescribes mandatory provisions for companies to fulfil their responsibility.⁴² There are several companies, which has contributed in fulfilling the CSR responsibility. For instance, some corporate sectors, which are working under the mandate of CSR, are such as, Mahindra & Mahindra Group, Bharti Enterprises, Toyota Kirloskar Motor, ITC Limited, Tata Chemicals Ltd., Nestle, Tata Consultancy Group, etc. Thus, if the private sector can improve its efficiency and performance they can contribute to faster progress in the sanitation sector in the country.

The media can widespread awareness about sanitation and its benefits for public health. It can also provide the right ambiance for social behavioural changes. Under the Swachh Bharat Mission, the Government of India and various state governments used all media platforms to achieve the objectives of sanitation and to spread public awareness. Social media had an important role in making the SBM campaign effective. About 90% of the people of India are aware of this campaign. In other words, about 70% believe that SBM would help to maintain cleanliness their city.⁴³

Thus, we can say that, though the Ministry of Drinking Water and Sanitation (in rural) and the Ministry of Urban Development (in urban) are the main implementing ministries for sanitation policies, this mission has become the business of all. Core ministries like Health, Women and Children Development, Railways, Rural

⁴¹ Water and Sanitation for All: A Practitioner Companion. Available at: http://web.mit.edu/urbanupgrading/waterandsanitation/customers/providing-services.html#back_to_top (visited on: June 23, 2019)

⁴²The Companies Act, 2013, Sec.135 and Schedule VII

⁴³Trishu Sharma, Effective Use of Media towards Swachh Bharat Abhiyan (SBA): A Study in reference to Chhattisgarh State, vol. 9(8), *Journal of Information and Computational Science*, p340, (2019)

Development, petroleum, Housing, and Urban Affairs are making all-out efforts to address the sanitation issues. They are working on the sanitation value chain of water supply, safe disposal and treatment of waste, and infrastructure maintenance in the sanitation sector.⁴⁴

There is no doubt about the fact that change must begin at home. People should start behavioural change towards sanitation practices from their homes. Every citizen of the country should take responsibility for himself/herself to make this SBM campaign a successful, instead of waiting for the government to take actions.⁴⁵ Changing mindsets is often harder than changing technology. In this swachhata mission, the Government of India emphasizes behavioral change, alongside technological advances, as the key to adequate sanitation. Thus, political will, public policy, investment and participation must all come together to create an enabling environment. People's participation strengthens the decades-long lack and neglect of sanitation and behaviour change about sanitation. The finding of the study clearly reveals that the sanitation sector needs to mobilize people's participation at the micro-level and relevant institutions to mobilize people's involvement at the macro level. It can be concluded that Civil Society initiatives towards sanitation are essential for raising awareness and transforming public behaviour about sanitation practices. Hence, the **Sixth Hypothesis** is proved.

Chapter VI, i.e., A Study of Administrative Responses and Public Awareness about sanitation in Lucknow City, contains the information about the study area, data analysis, data interpretation, and findings. The purpose of this chapter is to know the actual status of sanitation facilities provided in Lucknow city. For this purpose, the researcher visited to the officials of LMC to know the sanitation situation in the city. The researcher interviewed LMC officials from different zones. However, it is found that officials were reluctant to provide adequate information to the researcher. They often refer to LMC websites for the responses to the queries asked by the researcher. Therefore, the researcher could collect very little information through RTI.

⁴⁴*ibid*

⁴⁵Pitabas Pradhan, Swachh Bharat Abhiyan and the Indian Media, vol.5, *Journal of Content, Community & Communication*, pp.51 (2017)

For the empirical study, Lucknow city has been taken as a unit of study. The information has been collected from the households through a simple random survey method from the eight zones of Lucknow city to understand the nature of problems related to sanitation facilities. The required information and data have been collected from the 500 households. The survey aims to examine the behaviour and awareness of the people towards sanitation and cleanliness. Interpretation and conclusion have been drawn from the findings of the empirical study.

The purpose of this research is to find out how much people are aware of sanitation-related issues in Lucknow city and their behaviour change towards sanitation practices. After analysing the data, the researcher came to the following conclusion:

- Most of the respondents residing in the government-approved colonies are having adequate sanitation as the Municipal Corporation looks after the sanitation work. Whereas in some areas, the private agencies or individuals like Bangladeshi migrated persons are doing sanitation-related works. The researcher found through data that the majority of the respondents have toilet facilities in their households. It means they are living in an organized colony. LMC officials informed the researcher through RTI that LMC does not do sanitation work in unauthorized colonies. Data also reveals that 1.4% of people still defecate in open areas.
- Many respondents have informed that LMC workers clean up the drainage systems regularly or with some interval in their locality. In addition, the LMC officials informed through RTI that cleaning of drains is done regularly. In special circumstances, sometimes the cleaning is done by conducting a cleaning drive. However, while visiting their locality, the researcher has observed that the open drains were mostly filled with garbage and dirty waterlogged in some areas.
- The majority of respondents (73%) of the total population responded that the sewerage system is manually cleaned in their area. Suez India Private Limited does the work of cleaning the sewer line in Lucknow district. Over 525 workers are engaged in cleaning sewers currently. This shows that in most of the areas of Lucknow city, sewer cleaning is still done by humans, not by machines.
- Television, radio, newspapers, especially social media have played a significant role in creating awareness. The study found that media has played a poignant

role in providing information and spreading awareness about sanitation so that people can get the maximum benefit from the policies made. The research also revealed that most of the respondents rely on social media platforms, not only for social interaction but also for news, information, and decision-making, related to sanitation.

- At present, the civic body's private partner Eco-Green has deployed around 300 workers in every ward for daily door-to-door garbage collection. Still, 57.8% of households have reported that garbage is not being collected from their houses on a daily basis. They also reported that the Lucknow Municipal Corporation's vehicles do not come daily to collect the garbage, so they are forced to either hand over the garbage to the private garbage collector or dump the garbage in the locality dustbin. That is why most of the respondents (59.8%) commonly find household waste in their locality.
- The majority of the respondents have claimed that they are very much aware or have sufficient information about sanitation. Waste segregation (separation of wet and dry waste) is one of them. Still, 52% of respondents do not segregate waste at their homes. It shows that they have knowledge about waste segregation but not awareness, and they do not apply that knowledge in their behaviour.
- Around 69% of the respondents have agreed that there must be a separate law relating to sanitation in India. The majority of the respondents accept that they do not know about any law related to sanitation. It means either they are not aware of the need for laws related to sanitation, or they are satisfied with the sanitation facilities being provided in their area. It shows that people do not know much about the existing sanitation-related laws, regulations, or policies of the urban local bodies, which need to be popularised or be aware to the public.
- 53.4% of respondents said that the cleanliness of their area is average. It means that the government is providing sanitation facilities by which the majority of respondents are not satisfied. Moreover, it is important to note that in a nationwide sanitation survey conducted by the Union Ministry of Urban Development, Lucknow city ranked 121st in 2019 (down six places from 2018) in all India sanitation ranking.

- Half of the total respondents are aware that poor sanitation leads to environmental degradation, water pollution, soil pollution, air pollution, and transmitted diseases. It is observed that most people are aware of the impact of poor sanitation on human life, health, and the environment.
- The study showed that respondents accept that they have their duties towards maintaining sanitation in the home and surroundings. However, it was revealed by the data and observed by the researcher that garbage is spread out in most of the places in the residential areas. When the researcher asked the respondents about their responsibility to encourage others or neighbours for cleanliness, it is found that 77% agreed that they do so.

SUGGESTIONS

An important factor that affects the lives of the public, in general, is a sound sanitation system, which is, unfortunately, lacking in India. A considerable backlog has arisen due to a lack of political will and scarcity of resources. As per the 2011 Census, only 31 percent of rural households had toilet facilities. The negative impact of this shortfall was evident across India and was reflected by high death rates from stunting, malnutrition, diarrhoea, and water-borne diseases. We still have miles to go in the field of sanitation, as this area needs regular attention. In order to improve the quality of sanitation, some decisive steps have to be taken to create a “sustainable sanitation system” and save it for the present as well as future generations. This research also provides some suggestions for making sanitation facilities accessible to the people more effectively in the future. A few steps in this direction are suggested as following:

- There must be Specific comprehensive legislation at the Central and State level to ensure the provision of the right to sanitation enshrined in Article 21 of the Constitution of India. Public, private and government officials must also be made responsible for its implementation under the law. Moreover, the law must also contain provisions to ensure the rights and the duties of authorities and beneficiaries.
- Apart from drafting new laws related to sanitation, the existing laws must also be critically analysed and amend accordingly. Separate tribunals must also be set up to decide matters pertaining to sanitation.

- The main challenge related to sanitation is defining the concept of sanitation itself. Understanding the concept of sanitation requires a multidisciplinary approach, therefore, for better understanding, It is necessary to have a comprehensive definition of sanitation in the law. Thus, sanitation needs a multi-dimensional approach, such as economic growth, urbanisation, public health, and the environment, including climate change.
- Political will can bring us close to the dream of providing the right to sanitation to all. Historically, the major impediment to the progress of sanitation has been the lack of political will behind the improper implementation of sanitation policies. Fulfilling sanitation commitments requires additional efforts by the political leadership and concerted action to create universal and sustainable access to sanitation. Strong political will and leadership can bring extraordinary achievements in the field of sanitation, even in a difficult situation.
- Transparency is essential in all aspects of government functioning. Transparency in the sanitation sectors plays an important role in meeting the objectives of better sanitation condition. Individuals and groups who do not have adequate access to sanitation should be informed about policies to ensure their access to services. In addition, if the plans are not realized or unsuitable, one should be made aware of approaching the grievance mechanism.
- Accountability is an effective entry point to work with the sanitation administration, as it helps governments for becoming more responsive to the voices of the weak and marginalized populations. For good accountability in sanitation projects and operations, it is essential that politicians, policy-makers and sanitation service providers accept responsibility for their actions and give an account of why and how they have acted or failed to act. Therefore, governments, service providers, civil society and communities must play their part and cooperate by being accountable to better protect the right to sanitation and ensuring that no one is left behind.
- The government must ensure sustainable sanitation facilities to all. A sanitation services can be sustainable when it is not only economically viable, socially acceptable, and technically and institutionally appropriate, but it also preserves the environment and natural resources. Also, sustainable sanitation services depend on clear regulation, recognition of consumer rights and an effective

complaint mechanism. India has to meet the 2030 Sustainable Development Goals (SDGs), including Goal 6, which talks about sustainable sanitation. Moreover, sustainable sanitation is an approach that recognizes that waste, sewage, and wastewater are not wastes, but resources, that are valuable and must be reused and recycled.

- For the success of sanitation schemes, more emphasis should be given to the participation of the people in the programs launched by the government. In other words, partnerships between individuals and organisations in the government, the non-profit sector, development experts, investors, and companies should jointly address these issues to ensure access to water and sanitation for all.
- Behaviour change towards good sanitation practices is the most important thing. Sanitation sector depends not only on the provision of technology and services, but also on its proper use. Behaviour change is an important component of improving access and practices to sanitation. Traditionally, the sanitation sector has focused primarily on the delivery of ‘hardware’ solutions such as infrastructure. It is becoming increasingly evident that the ‘software’ component of the sanitation sector, such as behaviour change, must be prioritized.
- There is a prevalent myth about sanitation, which is also reflected in political rhetoric, that lack of sanitation is a problem that can only be solved through toilet construction. However, the fact is not true because mere building a toilet does not mean that people will use it. Construction of toilets is not the only solution to the sanitation problem, but it is also necessary to ensure that people have access to toilets and use them in a hygienic manner. Therefore, there is an urgent need to spread awareness about the good practice of sanitation. It is the responsibility of the government to spread hygiene awareness among the people by linking health with sanitation through assistance/participation of media and Non-Governmental Organizations (NGOs). The government must improve the functioning of the local body officials to engage them effectively and seriously for the implementation of policies related to the water, sanitation, and hygiene sector.
- Segregation is one of the most important activities that need to be implemented in order to promote effective waste management. There is a need to encourage segregation of waste at its source, i.e., household level, as well as segregation

in the garbage collection vehicle. There is no point in segregating the waste at home when it gets mixed in the dumping ground or treatment plant. Authorities must ensure that wet and dry waste is segregated into a separate bin. New Municipal Solid Waste Rules, 2016, encourage waste segregation at the source. These rules must be strictly followed by the implementing authority as well as the general public.

- Along with spreading awareness related to sanitation facilities, the government must recognise the right to sanitation and make people aware that it is also a constitutional right of every person to live in a clean and hygienic places. By granting a right to sanitation as a legal status, a citizen could claim it for enforcement through the judiciary.
- All kind of media must take responsibility to spread awareness regarding sanitation because mass media can make a topic popular, fashionable, or worthy of attention. Media can also contribute effectively in making people aware of the importance of sanitation in public life. It has the ability to determine what issues the public should think and worry about and motivate the government to frame policies accordingly. Along with this, efforts should also be made to highlight the problems related to the sanitation of the public.
- India outlawed the employment of manual scavengers in 1993 and expanded the law in 2013, but it has little impact on the ground. Hundreds of people are still forced to do this profession. The stigma and taboos attached to this practice cannot be denied. The government should also focus on those people who are forced to empty the toilets after filling the toilet pits. Thus, Legislation to prohibit manual scavenging is only the first step, but these laws need to be adequately implemented.
- Appropriate technology for each sanitation system plays an important role. This is a decisive factor for the success of the sanitation system. The technology selected should be such that it considers the entire sanitation chain from the point of excreta production to its collection, transportation, treatment, and safe use of the treated material. The technology should be selected according to ecological, economic, and financial factors and should also be suitable for the health and hygiene of the sanitation workers. Much attention should be paid to innovative ways of managing human waste, which will help improve the health

and lives of people around the world. With the help of technology, malpractices like manual scavenging can be eliminated.

- The informal nature of sanitation work is one of the first things that affect the planning and implementation of occupational safety of sanitation workers. The hierarchy of occupational safety includes personal protective equipment (PPE) for sanitation workers, engineering and administrative controls over changing technologies and processes, and finally, elimination and replacement of hazards. This set of actions must be acknowledged in the sanitation sector as well.
- Former and existing manual scavengers should be rehabilitated by transitioning their occupations into other occupations irrespective of their caste identity. The apathy of the government departments has proved to be a hindrance in the efforts to rehabilitate manual scavengers. The government should ensure rehabilitation of manual scavengers as provided under the 2013 Act, including financial assistance, scholarships, housing, alternative livelihood, and other significant legal and program-related assistance.
- In order to improve the general quality of life in rural areas, special attention needs to be paid to spread awareness among slums and their residents, and the populations that migrate to new colonies or urban areas. There is also a need to spread awareness about sanitation, health, and hygiene through special campaigns for safe and sustainable sanitation.
- Adequate and appropriate budgets are essential to achieve Goal 6 of the SDGs and make sanitation a reality. The government must also maintain transparency in giving details of budget allocation made for various schemes and utilization of these funds. Also, it is important to have a robust monitoring system to ensure effective utilization of resources so that it reaches where it needs to be.

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ANNEXURES

QUESTIONNAIRE FOR SANITATION

My name is **Indu Bala**. I am pursuing a Ph.D. in Human Rights, from Babasaheb Bhimrao Ambedkar University, Lucknow, Uttar Pradesh, under the guidance of Prof. Shashi Kumar. I am carrying out research work on '**Right to Sanitation in India: A Socio-Legal Study with Special Reference to Lucknow City, UP**'.

The purpose of this questionnaire is to collect the opinion of different people regarding the sanitation facilities in their locality. I assure you that all information provided by you will be kept confidential and will be used for academic purposes only.

Part-I - PERSONAL INFORMATION OF RESPONDENT

(This information shall not be disclosed to anyone)

- i. **Name:**
- ii. **Residence:**
Locality/Area: _____ Ward: _____
- iii. **Gender:**
1) Male 2) Female 3) Other
- iv. **Age:**
1) 18-24 2) 25-30 3) 31-35 4) 36-40
5) 40-above
- v. **Education:**
1) Uneducated 2) High school 3) Intermediate
4) Graduate 5) Post Graduate 6) Other
- vi. **Profession:**
1) Student 2) Government Employee 3) Private Employee
4) Business 5) Housewife 6) Other

Part-II - SUBJECT RELATED QUESTIONS

1. How much do you know about sanitation?
1) Very Less 2) Average 3) Sufficient
4) Very much 5) Not at All
2. Do you think that the media has raised your awareness about sanitation?
1) Extremely Disagree 2) Disagree 3) Agree
4) Extremely Agree 5) None of the above

3. Which kind of mass media platform is more effective in raising awareness regarding sanitation?
 - 1) Print Media (Newspaper/Magazine)
 - 2) Social Media
 - 3) Digital Media
 - 4) Broadcast Media (Television/ Radio)
 - 5) Other Platform
4. Which authority maintains the sanitation in your area?
 - 1) Local Government Authority
 - 2) Private Organization/Authority
 - 3) Other
 - 4) None
5. What kind of toilet is being used in your family?
 - 1) Private (one household)
 - 2) Shared (more than one household)
 - 3) Public Toilet
 - 4) Open defecation
6. Have you ever used any public toilet?
 - 1) Yes
 - 2) No
7. If not, what are the reasons that you avoided a public toilet?
 - 1) Unhygienic
 - 2) Safety Issues
 - 3) Privacy Issues
 - 4) Costly
 - 5) None
8. If yes, then how will you rate the cleanliness of the public toilet?
 - 1) Extremely Bad
 - 2) Bad
 - 3) Average
 - 4) Good
 - 5) Don't Know
9. What kind of drainage system is in your locality?
 - 1) Open Drainage
 - 2) Covered Drainage
 - 3) Underground System
 - 4) Other
10. How often drains are cleaned in your area?
 - 1) Weekly
 - 2) Monthly
 - 3) Occasionally
 - 4) Never
 - 5) Don't Know
11. How are sewers cleaned in your area?
 - 1) Manually
 - 2) By Machines
 - 3) Don't Know
12. What kind of waste do you generally find in your local area?
 - 1) Household waste
 - 2) Animal/Human feces
 - 3) Polluted Drainage
 - 4) Other (Please Specify)
 - 5) None of the above
13. How do you dispose of your daily household waste?
 - 1) Throw in the locality dustbin
 - 2) By Municipal Garbage Vehicle
 - 3) By Private Garbage Collector
 - 4) Other Means
14. Are you aware of waste segregation?
 - 1) Yes
 - 2) No
15. Do you segregate waste at home?
 - 1) Yes
 - 2) No
 - 3) Sometimes

**QUESTIONNAIRE FOR LUCKNOW MUNICIPAL CORPORATION
THROUGH RTI**

सेवा में,

नगर आयुक्त/ जन सूचना अधिकारी/ सक्षम अधिकारी
नगर निगम, लखनऊ।

विषय: सूचना का अधिकार अधिनियम, 2005 के अंतर्गत वांछित सूचनाएँ प्राप्त कराने हेतु।

महोदय,

निवेदन है कि, प्रार्थिनी, इंदु बाला, शोध छात्रा, डॉ० भीमराव अम्बेडकर विश्वविद्यालय, लखनऊ, शोध का विषय, 'Right to Sanitation in India: A Socio-Legal Study with Special Reference to Lucknow City, U.P.'।

प्रार्थिनी को अपने उक्त शोध कार्य के सम्बंध में, नगर निगम, लखनऊ से निम्नलिखित सूचनाएँ वांछित है, जो शोध कार्य पूर्ण करने में सहायक, महत्वपूर्ण एवं आवश्यक है।

अतः अनुरोध है कि निम्नलिखित विभिन्न बिंदुओं पर, सूचनाएँ, नगर निगम, लखनऊ के सम्बंधित विभागों/ अनुभागों से प्रदान कराने की कृपा करें:

1. वित्तीय वर्ष 2015-2016 से वित्तीय वर्ष 2019-2020 तक, प्रत्येक वित्तीय वर्ष में नगर निगम लखनऊ क्षेत्र में, स्वच्छ भारत अभियान से सम्बंधित कितना बजट निर्धारित किया गया, और उसमें से कितना व्यय किया गया?
2. वित्तीय वर्ष 2015-2016 से वित्तीय वर्ष 2019-2020 तक, प्रत्येक वित्तीय वर्ष में, नगर निगम लखनऊ क्षेत्र में, स्वच्छ भारत अभियान के अंतर्गत, कितने सार्वजनिक शौचालयों का निर्माण का लक्ष्य निर्धारित किया गया, और कितने शौचालय निर्मित किए गए?
3. सार्वजनिक शौचालयों की सफ़ाई की क्या व्यवस्था है तथा सफ़ाई हेतु कार्यदायी संस्था कौन सी है?
4. स्वच्छ भारत अभियान के अंतर्गत, वित्तीय वर्ष 2015-2016 से वित्तीय वर्ष 2019-2020 तक, प्रत्येक वित्तीय वर्ष में, नगर निगम लखनऊ क्षेत्र में, नगर निगम द्वारा, आम जनता के लिए/ वरिष्ठ नागरिकों के लिए, कितने सुलभ शौचालय एवं पेशाब घर, बनवाए गए हैं, और उनकी कार्यदायी संस्था कौन है?
5. वित्तीय वर्ष 2015-2016 से वित्तीय वर्ष 2019-2020 तक, प्रत्येक वित्तीय वर्ष में, नगर निगम लखनऊ क्षेत्र में सीवर लाइन बिछाने हेतु कितना बजट निर्धारित किया गया? कितनी सीवर लाइन बिछाया जाना प्रस्तावित किया गया, और उनमें से कितनी सीवर लाइन बिछायी गयीं?

6. सीवर लाइन की सफाई हेतु नगर निगम लखनऊ की क्या व्यवस्था है? क्या सीवर लाइन की सफाई मैनुअल रूप से की जा रही है या मशीनों द्वारा? क्या यह कार्य किसी कार्यदायी संस्था द्वारा कराया जा रहा है? यदि हाँ, तो उस संस्था का नाम?
7. क्या नगर निगम क्षेत्र के अंतर्गत आए गाँव, या अनधिकृत रूप से विकसित कालोनियों/आबादी, विशेष रूप से जो विकसित कालोनियों के बीच में आ गए हैं, में सीवर लाइन/पानी आदि की सुविधाएँ उपलब्ध करायी जा रही हैं?
8. नगर निगम लखनऊ क्षेत्र में, सड़कों/ गलियों की नालियों की सफाई की क्या व्यवस्था है?
9. ईको ग्रीन के द्वारा लखनऊ के कितने वार्ड में कचरा एकत्रित किया जाता है, और सूखा/गीला कचरा किस प्रकार प्रथक किया जाता है?
10. एकत्रित कचरे का निस्तारण लखनऊ में कहा किया जाता है? निस्तारण की प्रक्रिया बताएँ।
11. स्वच्छ भारत अभियान के अंतर्गत, नगर निगम लखनऊ क्षेत्र में, विभिन्न स्थानों पर कितने डस्टबिन लगाए गए हैं? यह डस्टबिन कितनी दूरी पर रखे गए हैं। (1 km के दायरे में स्थापित डस्टबिन की संख्या)
12. नगर निगम लखनऊ क्षेत्र में, सड़कों/ गलियों की सफाई की क्या व्यवस्था है, और उनके कूड़े का निस्तारण किस प्रकार किया जाता है?
13. वित्तीय वर्ष 2015-2016 से वित्तीय वर्ष 2019-2020 तक, प्रत्येक वित्तीय वर्ष में, नगर निगम लखनऊ क्षेत्र में, स्वच्छता जागरूकता अभियान के लिए कितना-कितना बजट निर्धारित किया गया है और उसमें से कितना व्यय किया गया है?
14. स्वच्छ भारत अभियान के अंतर्गत स्वच्छता के प्रति जागरूकता फैलाने के लिए नगर निगम लखनऊ क्षेत्र में, कौन-कौन से कार्यक्रम चलाए जा रहे हैं?
15. नगर निगम लखनऊ में, शासन द्वारा, सफाई कर्मचारियों के कुल कितने पद सृजित हैं और उनमें से कितने पद रिक्त हैं? नियुक्त सफाई कर्मचारियों में कितने नियमित हैं और कितने संविदा पर कार्यरत हैं? यदि आउटसोर्सिंग से नियुक्ति की गयी है, तब उनकी संख्या कितनी है और एजेन्सी का नाम क्या है?
16. सफाई कर्मचारी, जो सीवर लाइन आदि में घुस कर सफाई कार्य करते हैं, नगर निगम लखनऊ द्वारा उनकी सुरक्षा के क्या उपाय किए गए हैं?
17. नगर निगम क्षेत्र में, विभिन्न स्थानों पर, विकसित कालोनियों के बीच, खाली जगह /प्लाटों में झुग्गी झोपड़ियों में रह रहे अनेको प्रवासी मजदूरों/स्थानीय मजदूरों/कामगारों को स्वच्छ भारत अभियान का फायदा किस प्रकार पहुँचाया जा रहा है? क्या वह अभी भी खुले में शौच आदि दैनिक जीवन के आवश्यक कार्य करते हैं? यदि नहीं, तो इस सम्बंध में नगर निगम द्वारा क्या उपाय किए गए हैं?
18. क्या नगर निगम द्वारा, स्वच्छ भारत अभियान के अंतर्गत, नगर निगम क्षेत्र में, सभासदों को, उनके वॉर्ड में, सफाई आदि कार्य कराने हेतु, कुछ दायित्व सौंपे गए हैं?
19. नगर निगम क्षेत्र के अंतर्गत, प्राइवेट कॉलोनायज़र्स द्वारा विकसित वह कोलोनियाँ, जिन्हें सरकार द्वारा अभी तक नियमित नहीं किया गया है, की सफाई व्यवस्था नगर निगम द्वारा किस प्रकार कराई जा रही है?

20. गाँव, जो नगर निगम क्षेत्र में आ गए हैं और जो विकसित क्षेत्रों के समीप स्थित हैं, वहाँ के निवासियों को स्वच्छ भारत अभियान की सुविधाएँ प्रदान की जा रही हैं या नहीं? यदि हाँ, तो किस प्रकार?

धन्यवाद

दिनांक: 18-11-2020

भवदीया

संलग्नक:-

1. प्रश्नावली
2. पोस्टल ऑर्डर

इंदु बाला
(शोध छात्रा)
मानवाधिकार विभाग
(SLS),
बी० बी० ए० यू०,
रायबरेली रोड, लखनऊ- 226025

**RESPONSES OF LUCKNOW MUNICIPAL CORPORATION (LMC)
THROUGH RTI**



नगर निगम, लखनऊ


<p>प्रेषक पर्यावरण अभियन्ता, नगर निगम, लखनऊ।</p>	<p>सेवा में, सुश्री इंदु बाला, डा० भीमराव अम्बेडकर विश्वविद्यालय, रायबरेली रोड, लखनऊ-226002 मोबाईल : 8765744800</p>
<p>पत्र संख्या :- डी/96 /पर्या०अभि०/20</p>	<p>दिनांक :- 02 नवम्बर, 2020</p>
<p>विषय : सूचना का अधिकार अधिनियम-2005 के अन्तर्गत सूचना उपलब्ध कराये जाने के सम्बन्ध में।</p>	

महोदय,


कृपया उपरोक्त विषयक आपके पत्र दिनांक 26-10-2020 के द्वारा 13 बिन्दुओं पर मांगी गयी सूचना के सम्बन्ध में अवगत कराना है कि मात्र बिन्दु संख्या 9 व 10 ही इस कार्यालय से सम्बन्धित हैं, जिसके क्रम बिन्दुवार सूचना निम्नवत् है :-

- मेसर्स इकोग्रीन एनर्जी लखनऊ प्रा० लि० द्वारा जनपद लखनऊ के समस्त 110 वार्डों से (कुछ वार्डों से आंशिक एवं कुछ वार्डों से पूर्ण कचरे का संग्रहण) कचरा एकत्रित किया जाता है। शिवरी स्थित सॉलिड वेस्ट मैनेजमेन्ट प्लान्ट पर Trommel एवं बैलीस्टिक सेपरेटर्स द्वारा सूखे व गीले कचरे को पृथक किया जाता है।
- शिवरी, मोहान रोड, लखनऊ स्थित सॉलिड वेस्ट मैनेजमेन्ट प्लान्ट पर एकत्रित कचरे का निस्तारण किया जाता है। प्लान्ट पर Trommel एवं बैलीस्टिक सेपरेटर्स द्वारा सूखे व गीले कचरे को पृथक कर सूखे कचरे से RDF एवं गीले कचरे से खाद (Compost) बनायी जाती है।

भवदीय


 (पंकज भूषण)
 पर्यावरण अभियन्ता

प्रतिलिपि : जन सूचना अधिकारी, नगर निगम, लखनऊ को उनके कार्यालय पत्र सं० 23403/सूचना/ए०एम०सी०, दिनांक 27-10-2020 के क्रम में सूचनार्थ प्रेषित।


 (पंकज भूषण)
 पर्यावरण अभियन्ता



नगर निगम लखनऊ

प्रेषक, नगर स्वास्थ्य अधिकारी नगर निगम, लखनऊ। संख्या- 382/40/104 दिनांक- 24/11/2020	सेवा में, इन्दु बाला मानवाधिकार विभाग(एस0एल0एस0) बी0बी0ए0यू0 रायबरेली रोड लखनऊ नत्थी.....
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विषय:-सूचना का अधिकार अधिनियम 2005 के तहत सूचना उपलब्ध कराये जाने विषयक।
 महोदय,

कृपया अपने सूचना अधिकार 2005 सम्बन्धी प्रार्थना पत्र दिनांक-26.10.2020 के सम्बन्ध में स्वास्थ्य विभाग से सम्बन्धित सूचना निम्नवत् है:-

1. बिन्दु संख्या-7 के सम्बन्ध में सूचित कराना है कि सार्वजनिक स्थलों से गीला/सूखा कचरा एकत्रित करने के लिये नीले एवं हरे रंग के डस्टबिन रखवाए गए हैं जिन्हें प्रतिदिन निर्धारित समय पर खाली किया जाता है। सड़क पर पड़े कचरे को सफाई कर्मचारी झाड़ू लगाकर एक जगह एकत्रित करते हैं जिसे विभिन्न वाहनों से प्रतिदिन कूड़ा स्थल तक पहुंचाया जाता है।
2. बिन्दु संख्या-8 के सम्बन्ध में सूचित कराना है नालियों की सफाई नियमित रूप से तथा विशेष परिस्थितियों में सफाई अभियान लगाकर सफाई करायी जाती है।
3. बिन्दु संख्या-13 के सम्बन्ध में अवगत कराना है कि कुल 1947 नियमित तथा 959 संविदा सफाई कर्मचारी कार्यरत हैं। उपरोक्त संख्याओं मुक्तक आश्रित की नयी नियुक्ति अथवा सेवानिवृत्त होने के फलस्वरूप घट-बढ़ सकती है।

नगर स्वास्थ्य अधिकारी

प्रतिलिपि:-

1. अपर नगर आयुक्त/जनसूचना समन्वयक महोदय को उनके पत्रांक संख्या-23403/सूचना/ए0एम0सी0 दिनांक-27.10.2020 के क्रम में सूचनार्थ।

नगर स्वास्थ्य अधिकारी



नगर निगम लखनऊ

प्रेषक, नगर स्वास्थ्य अधिकारी नगर निगम, लखनऊ। संख्या- D.VU/11/4A/ASA/2020 दिनांक- 26/11/2020	सेवा में, इन्दू बाला (शोध छात्रा) बी-1/120 रश्मिखण्ड, शारदानगर लखनऊ-226002 नत्थी.....
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विषय- सूचना अधिकार अधिनियम 2005 के तहत सूचना उपलब्ध कराये जाने के सम्बन्ध में।
महोदया,

अपने सूचना अधिकार सम्बन्धी प्रार्थना पत्र दिनांक-18.11.2020 के सम्बन्ध में स्वास्थ्य विभाग से सम्बन्धित बिन्दुओं पर सूचनायें निम्नवत् हैं-

- बिन्दु संख्या-8 के सम्बन्ध में सूचित कराना है कि सम्पूर्ण नगर निगम क्षेत्र में हदबन्दी के अनुसार सड़कों, गलियों की सफाई व्यवस्था की गयी है। प्रत्येक हदबन्दी क्षेत्र में नियमानुसार सफाई कर्मचारी नियुक्त हैं। सफाई के दौरान जो भी कूड़ा एकत्रित होता है उसे हथू टेला से पड़ाव स्थल अथवा किसी अन्य वाहन से स्थानान्तरित किया जाता है, जहाँ से उस एकत्रित कूड़े को डम्पिंग स्टेशन अथवा काम्पैक्टर तक पहुँचाया जाता है जिससे कूड़े का निस्तारण नियमानुसार सुनिश्चित कराया जाता है।
- बिन्दु संख्या-12 उपरोक्तानुसार।
- नगर निगम लखनऊ में सफाई कर्मचारियों के लगभग 3438 पद सृजित हैं तथा लगभग 1345 पद रिक्त हैं नियमित सफाई कर्मचारियों की संख्या 2093, संविदा 959 तथा विभिन्न एजेंसियों के माध्यम से कार्यदायी संस्था के 6541 सफाई कर्मचारी कार्यरत हैं। उपरोक्त संख्याओं मृतक आश्रित की नयी नियुक्ति, सेवानिवृत्त होने के फलस्वरूप तथा अन्य कारणों से घट-बढ़ सकती है।
- बिन्दु संख्या-19 के सम्बन्ध में सूचित कराना है आप द्वारा प्रयोग किये गये नियमित शब्द का तात्पर्य स्पष्ट नहीं है। यदि आपके नियमित का तात्पर्य उन कालोनियों से है जिन्हें नगर निगम लखनऊ द्वारा अधिग्रहित कर लिया गया है तो अवगत कराना है कि नगर निगम द्वारा सभी अधिग्रहीत क्षेत्रों की कालोनियों की सफाई व्यवस्था मानक के अनुसार नगर निगम द्वारा करायी जाती है और जो क्षेत्र अधिग्रहित नहीं किया गया है उसमें नगर निगम द्वारा सफाई नहीं करायी जाती है।

प्रतिलिपि:-

- अपर नगर आयुक्त/जनसूचना समन्वयक महोदय को उनके पत्रांक संख्या-23516/सूचना/ए0एम0सी0 दिनांक-24.11.2020 के क्रम में सूचनार्थ।

नगर स्वास्थ्य अधिकारी

नगर स्वास्थ्य अधिकारी

	नगर निगम, लखनऊ लालबाग, टी0एन0रोड, लखनऊ -226001(उ0प्र0) ई-मेल nnlko@up.nic.in टेली-फैक्स 0522-2622440

प्रेषक,
अधिशाली अभियन्ता-4
नगर निगम, लखनऊ।
संख्या-D. S. F. F. Y
दिनांक 09-4-2021

सेवा में,
इन्दु बाला (शोध छात्रा),
मानवाधिकार विभाग (SLS) B.B.A.U,
रायबरेली रोड, लखनऊ।
पिन कोड-226002
नस्थी.....

विषय : जन सूचना अधिकार अधिनियम 2005 के सूचना अधिकार सन्दर्भ संख्या-23542/सूचना/एएमसी/20 दिनांक 03.12.2020 के सम्बन्ध में।

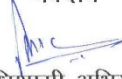
महोदय,

कृपया उपरोक्त विषयक जन सूचना अधिकार अधिनियम 2005 के सूचना अधिकार सन्दर्भ संख्या-23542/सूचना/एएमसी दिनांक 03.12.2020 का सन्दर्भ ग्रहण करने का कष्ट करें। आपके द्वारा सूचना अधिकार अधिनियम-2005 के अन्तर्गत मांगी गयी सूचना संलग्नानुसार प्रेषित है।

कृपया अवगत होना चाहें।


संलग्नक: उपरोक्तानुसार।

भवदीय


अधिशाली अभियन्ता-4

प्रतिलिपि :

- 1-अपर नगर आयुक्त महोदय जन सूचना समन्वयक को सूचनार्थ।
- 2-मुख्य अभियन्ता महोदय को सूचनार्थ।
- 3-प्रभारी अधिकारी समिति को सूचनार्थ।


अधिशाली अभियन्ता-4

विषय : जन सूचना अधिकार अधिनियम 2005 के सूचना अधिकार सन्दर्भ संख्या-23542/सूचना/एएमसी/20 दिनांक 03.12.2020 के सम्बन्ध में।

कृपया उपरोक्त विषयक जन सूचना अधिकार अधिनियम 2005 के सूचना अधिकार सन्दर्भ संख्या-23542/सूचना/एएमसी दिनांक 03.12.2020 का सन्दर्भ ग्रहण करने का कष्ट करें। उक्त के माध्यम से इन्दु बाला (शोध छात्रा), मानवाधिकार विभाग (SLS) B.B.A.U, रायबरेली रोड, लखनऊ पिन कोड-226002 द्वारा चाही गई सूचना बिन्दुवार निम्नवत् है:-

1. पर्यावरण अभियन्ता कार्यालय से संबंधित है।
2. उपरोक्तानुसार।
3. जोनल अधिकारी जोन-4 से सम्बन्धित है।
4. पर्यावरण अभियन्ता कार्यालय से संबंधित है।
5. जलकल विभाग से संबंधित है।
6. उपरोक्तानुसार।
7. उपरोक्तानुसार।
8. सड़कों एवं गलियों व नालियों की स्थिति सामान्य रूप से संतोष जनक है। आवश्यकतानुसार नालियों एवं सड़कों की मरम्मत का कार्य कराया जा रहा है।
9. जोनल अधिकारी जोन-4 से सम्बन्धित है।
10. उपरोक्तानुसार।
11. उपरोक्तानुसार।
12. आर0आर0 विभाग व पर्यावरण अभियन्ता से संबंधित है।
13. पर्यावरण अभियन्ता से संबंधित है।
14. उपरोक्तानुसार।
15. जोनल अधिकारी जोन-4 से सम्बन्धित है।
16. जलकल विभाग से संबंधित है।
17. जोनल अधिकारी जोन-4 से संबंधित है।
18. उपरोक्तानुसार।
19. उपरोक्तानुसार।
20. उपरोक्तानुसार।


लिपिक


अवर अभियन्ता

जलकल विभाग, नगर निगम, लखनऊ
ऐशबाग, लखनऊ-226004

प्रेषक, सचिव/जनसूचना अधिकारी जलकल विभाग, नगर निगम, लखनऊ। प०स०- 11582/लखनऊ/नगर/ऐशबाग दिनांक- 21/12/22	सेवा में, सुश्री इंदुबाला (शोध छात्रा), मानवाधिकार विभाग (एसएलएस), बी०बी०ए०यू०, रायबरेली रोड, लखनऊ, पिन कोड-226202
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विषय

सूचना का अधिकार अधिनियम 2005 के अन्तर्गत सूचना प्राप्त करने के सम्बन्ध में।

महोदया,

कृपया उपरोक्त विषयक जनसूचना अधिकारी/समक्ष अधिकारी, नगर निगम, लखनऊ को सम्बोधित अपने पत्र दि०-26-10-20 का संदर्भ ग्रहण करे, जो नगर निगम, लखनऊ द्वारा जलकल विभाग में प्राप्त हुआ है। आप द्वारा उक्त पत्र में सूचना का अधिकार अधिनियम 2005 के अन्तर्गत जनपद लखनऊ से संबंधित कुल 13 बिन्दु पर सूचना चाही गयी है। उक्त संबंध में जलकल विभाग से संबंधित सूचना निम्नवत् है:-

1. बिन्दु सं०-1 जलकल विभाग से संबंधित नहीं है।
2. बिन्दु सं०-2 जलकल विभाग से संबंधित नहीं है।
3. बिन्दु सं०-3 जलकल विभाग से संबंधित नहीं है।
4. बिन्दु सं०-4 में अवगत कराना है कि जनपद लखनऊ में सीवर लाइन डालने का कार्य उ०प्र० जल निगम द्वारा कराया जा रहा है। अतः समस्त सूचनाएं उ०प्र० जल निगम से संबंधित है।
5. बिन्दु सं०-5 में अवगत कराना है कि जनपद लखनऊ में सीवर लाइन की सफाई का कार्य मैसर्स-स्वेज इण्डिया प्राईवेट लिमिटेड, शालीमार टाईटेनियम कॉर्पोरेट पार्क, 7जी फ्लोर, 704.705.९705, बी विभूतिखण्ड, गोमतीनगर, लखनऊ द्वारा कराया जा रहा है।
6. बिन्दु सं०-6 जलकल विभाग से संबंधित नहीं है।
7. बिन्दु सं०-7 जलकल विभाग से संबंधित नहीं है।
8. बिन्दु सं०-8 जलकल विभाग से संबंधित नहीं है।
9. बिन्दु सं०-9 जलकल विभाग से संबंधित नहीं है।
10. बिन्दु सं०-10 जलकल विभाग से संबंधित नहीं है।
11. बिन्दु सं०-11 जलकल विभाग से संबंधित नहीं है।
12. बिन्दु सं०-12 जलकल विभाग से संबंधित नहीं है।
13. बिन्दु सं०-13 जलकल विभाग से संबंधित नहीं है।

सचिव/जनसूचना अधिकारी
जलकल विभाग

प०स०:-

दि०-

प्रतिलिपि:- निम्नलिखित को सादर सूचनार्थ प्रेषित।

1. अपरनगर आयुक्त, जनसूचना समन्वयक, नगर निगम, लखनऊ को उनके पत्रांक- 23403/सूचना/एएमसी, दि०-27-10-20 के क्रम में।
2. महाप्रबन्धक महोदय, जलकल विभाग, ऐशबाग, लखनऊ।

सचिव/जनसूचना अधिकारी
जलकल विभाग

जलकल विभाग, नगर निगम, लखनऊ
ऐशबाग, लखनऊ-226004

प्रेषक, सचिव/जनसूचना अधिकारी जलकल विभाग, नगर निगम, लखनऊ। प०स०- दिनांक-	सेवा में, महाप्रबन्धक गोमती प्रदूषण नियन्त्रण ईकाई, उ०प्र० जल निगम, लखनऊ।
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विषय

सूचना का अधिकार अधिनियम 2005 के अन्तर्गत सूचना प्राप्त करने के सम्बन्ध में।

महोदय,

कृपया उपरोक्त विषयक के संबंध में अवगत कराना है कि सुश्री इंदुबाला, शोध छात्रा, मानवाधिकार विभाग (एसएलएस) बी०बी०ए०यू०, रायबरेली रोड, लखनऊ द्वारा जनसूचना अधिकारी/समक्ष अधिकारी, नगर निगम, लखनऊ को सम्बोधित पत्र दि०-26-10-20 द्वारा सूचना का अधिकार अधिनियम 2005 के अन्तर्गत जनपद लखनऊ से संबंधित कुल 13 बिन्दु पर सूचना चाही गयी है। उक्त संबंध में बिन्दु सं०-4 का संबंध उ०प्र० जलनिगम से है जिसका विवरण निम्नलिखित है।

बिन्दु सं०-4 में वित्तीय वर्ष 2015-16 से वित्तीय वर्ष 2019-20 तक जनपद लखनऊ में कितनी सीवर लाइन बिछायी जानी प्रस्तावित है तथा कितनी सीवर लाइन बिछायी जा चुकी है, तथा इस मद में सीवर के लिये कितना बजट आवंटित किया गया

अतः उपरोक्त के संबंध में अतिशीघ्र सूचना सुश्री इंदुबाला, शोध छात्रा, मानवाधिकार विभाग (एसएलएस) बी०बी०ए०यू०, रायबरेली रोड, लखनऊ को उपलब्ध कराने का कष्ट करे।

सचिव/जनसूचना अधिकारी
जलकल विभाग

प०स०:- 11581 | *सचिव/जनसूचना अधिकारी*

दि०- 21-12-20

प्रतिलिपि:- निम्नलिखित को सादर सूचनार्थ प्रेषित।

1. अपरनगर आयुक्त, जनसूचना समन्वयक, नगर निगम, लखनऊ को उनके पत्रांक- 23403/सूचना/एसएमसी, दि०-27-10-20 के क्रम में।
2. महाप्रबन्धक महोदय, जलकल विभाग, ऐशबाग, लखनऊ।
3. सुश्री इंदुबाला, शोध छात्रा, मानवाधिकार विभाग (एसएलएस) बी०बी०ए०यू०, रायबरेली रोड, लखनऊ को उनके पत्र दि०-26-10-20 के क्रम में।

सचिव/जनसूचना अधिकारी
जलकल विभाग