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BACKGROUND NOTE ON INDIAN LEGAL FRAMEWORK FOR SANITATION IN URBAN AREAS

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1. Background

There is no comprehensive urban sanitation law in India, either at the Central or State levels. Instead, the sources of law relating to urban sanitation exist in a multitude of legal instruments, including pollution control laws enacted by the Central Governmentⁱ and municipal laws,ⁱⁱ laws governing parastatal bodies,ⁱⁱⁱ public health laws,^{iv} and building and sanitation byelaws,^v enacted at the State or local level. In addition, the National Urban Sanitation Policy 2010 and the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) provide the basis for government and private sector interventions for urban sanitation.

2. Municipal and Parastatal laws

All the municipal laws include provisions relating to water supply, drainage, sewerage and sanitation. Sanitation is one of the duties/functions of the municipal authorities. They are also required to ensure connection of private drains to the drainage network and to provide places for disposal of sewage. Similar obligations are cast on parastatal bodies under the applicable laws. While these laws do not address all aspects of urban sanitation, even the existing provisions are not often implemented. Non-availability of funds, prioritization of other public services, lack of awareness about the importance of sanitation, absence of public demand, etc. are some of the reasons for this state of affairs.

Under municipal laws, owners/occupiers of buildings are also required to comply with a number of provisions, such as ensuring that no building is constructed without drainage and separation of rainwater and wastewater (as their mixing is one of the main causes of flooding during the monsoon season resulting in spread of diseases and presenting significant public health risk). Again, there is rampant non-compliance with these provisions in the absence of proper monitoring and effective implementation of the laws. The same is the case with the relevant provisions of the sanitation and building byelaws.

3. Failure of Municipal Authorities in Ensuring Sewage Treatment

The effectiveness of wastewater treatment and disposal measures is adversely affected by incomplete operationalisation of these laws. For example, sewage treatment plants are not operating to optimal capacity in the absence of availability of wastewater for treatment. The latter is due to incomplete drainage networks in cities and the complete absence of drainage facilities in residential areas that continue to generate large quantities of wastewater. As a result, untreated/partly treated wastewater is dumped into water bodies or on land. Another issue is that the municipal authorities and personnel of the State Pollution Control Boards engage in blame shifting regarding their obligations under the pollution control laws enacted by the Central Government.

4. Absence of Laws for Peri-Urban Areas and Slum Areas

Peri-urban and slum areas are excluded from the purview of the abovementioned laws. Some of the states have enacted laws for slum areas, which include provisions for sanitation^{vi} but implementation is not uniform. Peri-urban areas suffer on account of their exclusion from legal frameworks relating to urban and rural areas. As a result, provision of sanitation, among other civic services, in these areas is made on an *ad hoc* basis or is completely absent.

5. Impacts of Continuing Practice of Open Defecation

This state-of-affairs is linked to the continuing widespread practice of open defecation in urban areas. The overwhelming focus of government policies has been provision of toilets but interconnected issues such as provision of water, terms of access to these facilities (such as paying for use of toilets), etc. have not received adequate attention. The health impacts of the practice of open defecation and its links with cases of sexual violence, especially for women and children, have not been effectively integrated into the legal and policy frameworks.

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- ⁱ Water (Prevention and Control of Pollution) Act, 1974, available at <http://www.ielrc.org/content/e7402.pdf> and Environment (Protection) Act, 1986, available at http://envfor.nic.in/downloads/rules-and-regulations/eprotect_act_1986.pdf.
- ⁱⁱ Rajasthan Municipalities Act, 2009, available at www.ielrc.org/content/e0911.pdf.
- ⁱⁱⁱ Uttar Pradesh Water Supply and Sewerage Act, 1975, available at www.ielrc.org/content/e7501.pdf.
- ^{iv} Goa, Daman and Diu Public Health Act, 1985.
- ^v Haryana Municipal Drainage and Sanitation Bye-laws, 1977, available at <http://www.ielrc.org/content/e7703.pdf>.
- ^{vi} Maharashtra Slum Areas (Clearance, Improvement and Development) Act, 1971, available at http://housing.maharashtra.gov.in/Sitemap/housing/pdf/actsrules/Maharashtra_Slum_Areas_Improvement_Clearance.pdf.