



International Environmental
Law Research Centre

BACKGROUND NOTE ON RURAL CONTEXT FOR THE RIGHT TO SANITATION IN INDIA

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IELRC BRIEFING PAPER
2013 - 02

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1. Rural sanitation scenario in India

The sanitation crisis in rural India is to the extent that:

- Around 74 per cent of the rural population defecates in open.
- Approximately 13 million unsanitary bucket latrines/dry latrines still exist and over 700,000 Indians belonging to lower castes are still involved in manual scavenging.
- Management of solid and liquid wastes is generally unheard of in rural India.

2. Statutory Framework for implementation

Sanitation is a state subject under the Constitution and in the rural context, it is being mostly dealt with at the local level by local bodies, i.e., village panchayat – a body at the village level constituted of elected representatives. A number of states have passed Panchayati Raj law that makes it a responsibility of the village panchayat to take all necessary actions for the improvement of sanitation.ⁱ Important powers and responsibilities of village panchayats, in this context, are:

- Implementation of rural sanitation schemes and sanitation related activities such as cleaning of public roads, drains, tanks, wells and other public places and construction and maintenance of public latrines.
- Power to give direction to individuals to take sanitation measures in their premises or and the power to enforce it in case of non-compliance.

Some states have adopted a different strategy by establishing state level agencies to ensure sanitation for all.ⁱⁱ Some of the major features of such laws are:

- It provides for duty of individuals to refrain from causing nuisance injurious to health and property.
- It vests powers and functions relating to sanitation with a state level agency.

The statutory framework follows a style of ‘*mandating*’ the agency constituted under the statute to ‘*control and manage*’ sanitation services and sewerage system and NOT following a right to sanitation based approach by prescribing duty to the agency and corresponding enforceable right to individuals.

3. Policy framework

In India, sanitation has been a concern of high priority at least since the sixth five-year plan (1980-85). The Central Rural Sanitation Programme (CRSP) launched in 1986 was one of the landmark initiatives in this regard. The CRSP was a supply oriented programme with focus on subsidy. This policy approach was changed with the launch of Total Sanitation Campaign (TSC) in 1999 which focused more on motivational activities and less on direct financial assistance.ⁱⁱⁱ

The TSC has been renamed as Nirmal Bharat Abhiyan (NBA) with effect from 1 April 2012. Its key features are:

- Expansion of sanitation goals from toilets to other aspects such as solid and liquid waste management and personal hygiene.
- A community-led approach with focus on collective achievement of total sanitation.
- Incentive to all Below Poverty Line (BPL) Households and Above Poverty Line Households (APL) restricted to SCs/STs, small and marginal farmers, landless labourers with homestead, physically handicapped and women headed households.
- The incentive amount to BPL households/identified APLs for construction of one unit of individual household toilet is Rs 4600/- (Rs 5100/- for difficult and hilly areas).
- Focus on education and motivation of communities.
- Development of a sanitation market to make available sanitation materials of various quality and prices.
- An incentive programme known as Nirmal Gram Puraskar (NGP) which offers a cash prize to local bodies for achieving total sanitation.^{iv}
- The responsibility for delivering on programme goals rests with local governments (Panchayati Raj Institutions) with significant involvement of communities.

In 2003, a new scheme called Provision of Urban Amenities in Rural Areas (PURA) was introduced by the Central Government with funding from the Asian Development Bank which aims to provide urban amenities in rural areas. PURA promotes Public Private Partnership (PPP) between Village Panchayats and private sector partner to provide amenities which include sanitation facilities such as sewerage, drainage and solid waste management.^v

4. Issues and challenges

- Sanitation programmes and schemes do not recognise the right to sanitation as understood in the Constitution of India.
- Sanitation policy framework does not adequately incorporate the objective of eradication of manual scavenging as its goals.
- Gender aspects particularly physical and sexual violence against women while going for open defecation have not received proper and adequate policy attention.
- Introduction of market oriented approach towards implementation of the right to sanitation is inconsistent with the constitutional norms and aspirations.

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- ⁱ See, e.g., Haryana Panchayati Raj Act, 1994, Section 21, available at <http://www.ielrc.org/content/e9405.pdf>.
- ⁱⁱ See, e.g., Uttar Pradesh Jal Nigam established under the Uttar Pradesh Water Supply and Sewerage Act, 1975, available at <http://www.ielrc.org/content/e7501.pdf> and Goa Sewerage System and Sanitation Services Management Act, 2008, available at http://www.urbanindia.nic.in/programme/uwss/Goa_SSSSM_Act_2008.pdf.
- ⁱⁱⁱ Total Sanitation Campaign Guidelines, 2007, available at <http://www.ielrc.org/content/e0716.pdf>.
- ^{iv} Nirmal Gram Puraskar guidelines, available at http://indiasanitationportal.org/sites/default/files/NGP_Guidelines2012-ENG_0_0.pdf.
- ^v PURA Guidelines, 2012, available at http://pura.net.in/sites/default/files/puradocs/Modified_PURA_Scheme_Guidelines-07052012pdf.pdf.