



SIGNIFICANCE OF RIGHT TO CLEAN WATER AND SANITATION AS A SUSTAINABLE DEVELOPMENT

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ABSTRACT

The United Nations Organization announced a bold initiative in the year 2015 with the adoption of the 17 sustainable development goals. The goals are espoused to be a blueprint for achieving peace and prosperity in the world by the year 2030. Goal number 6 aims to secure universal availability and sustainable management of water and sanitation. Although water is a basic necessity for human survival, the quality of water that about 3 billion people currently depend on is unknown, as per the Sustainable Development Goals Report, 2022. It also states that to reach universal coverage by the year 2030, global efforts have to increase fourfold. In this paper, the evolving Indian case laws relating to water are examined, with particular emphasis on the basic right to water, issues relating to control over it and the connections between water and the environment. Although the courts have considered issues of water law for a long time, the activities of the past few years are particularly significant due to the introduction of water law reforms that aim to remodel the water sector. Closer to home, despite earlier rulings of the Supreme Court of India, the High Court of Delhi had to reiterate in 2021 the right to access to drinking water as a fundamental right under Article 21 in the case of *Delhi Sainik Co-operative Housing Building Society Ltd. (Regd.) Ors. v. Union of India & Ors.*, where a colony was contended to be unauthorized. This paper is an attempt to analyse the issues and challenges behind access to clean water and sanitation in the new millennium.

Keywords: *Drinking Water, Access, Law, Sustainable, Sanitation, India.*

I. INTRODUCTION

“Water is the driving force of all nature.”

— Leonardo da Vinci

Water is one of the core elements that sustain life on Earth. Of the world’s total supply of about 332 cubic miles of water, about 97 percent is held in the oceans.¹ Therefore, only a meagre 3 percent is available for regular human usage and consumption. It is imperative that the same be treated as a scarce natural resource and utilized sustainably, especially with the growth in population. It is predicted that by the year 2030, the demand for water will be 40

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¹ Where is all the earth’s Water? National Ocean Service, United States of America, *available at:* <https://oceanservice.noaa.gov/facts/wherewater.html> (accessed on June 12, 2025).

percent above the feasible supply.² In the year 2010, the United Nations General Assembly passed resolution 64/292 declaring the “right to protected and clean drinking water and sanitation as a human right.”³ Subsequently, the United Nations Human Rights Council adopted resolution 15/9 in their 15th regular session, September 2010,⁴ reaffirming the ‘right to water and sanitation’ as a human right under the International law. The United Nations Organization had previously proclaimed the years 2005-2015 as the International Decade for Action ‘Water for Life’ to achieve the water-related international goals under the Millennium Development Goals, 2015.⁵ Currently, it is the ‘Water Action Decade’ (2018-2028)⁶ under the Sustainable Development Goals to achieve similar objectives of clean water and sanitation adopted by the United Nations General Assembly. The fact that access to clean water and sanitation has been acknowledged as a basic human right in the international arena repeatedly portrays its significance. However, the concern remains due to this very fact, as despite such recognition at the global level, the right to water remains a contested issue in many parts of the world.⁷ India having reached the pinnacle of population growth in the world at 18 percent lags behind in access to water as it only has 4 percent of its water resources.⁸ Article 21 of the Constitution of India provides for the right to life and personal liberty, from which the courts have drawn right to water in several significant judgements. Yet, several issues and challenges persist in the enjoyment of this basic human right.

² Half the World to Face Severe Water Stress by 2030 unless Water Use is ‘Decoupled’ from Economic Growth, says International Resource Panel, United Nations Environment Programme, *available at*: <https://www.unep.org/news-and-stories/press-release/half-world-face-severe-water-stress-2030-unless-water-use-decoupled> (accessed on June 12, 2025).

³ International Decade for Action ‘WATER FOR LIFE’2005-2015, United Nations Department of Economic and Social Affairs, *available at*: https://www.un.org/waterforlifedecade/human_right_to_water.shtml (accessed on June 12, 2025).

⁴ *Ibid.*

⁵ International Decade for Action ‘WATER FOR LIFE’2005-2015, United Nations Department of Economic and Social Affairs, *available at*: <https://www.un.org/waterforlifedecade/background.shtml> (accessed on June 12, 2025).

⁶ International Decade for Action on Water for Sustainable Development, 2018-2028, United Nations, *available at*: <https://www.un.org/en/events/waterdecade/#:~:text=In%20order%20to%20accelerate%20efforts,%E2%80%9CWater%20for%20Sustainable%20Development%E2%80%9D>. (accessed on June 14, 2025).

⁷ Pankaj KP Shreyaskar, “Contours of Access to Water and Sanitation in India: Drawing on the Right to Live with Human Dignity” 51(53) *Economic&Political Weekly*144 (2016).

⁸ World Water Day 2022: How India is addressing its water needs, The World Bank, *available at*: <https://www.worldbank.org/en/country/india/brief/world-water-day-2022-how-india-is-addressing-its-water-needs> (accessed on June 20, 2025).

2.2 Billion People Lack Safely Managed Water

As of 2022, more than a quarter of the global population does not have access to a reliable and safe water source at home. This headline number reveals a deep and persistent development failure with life-threatening consequences.

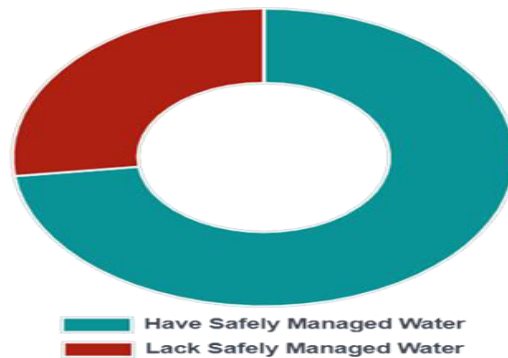


Fig 1. 27% of the Global Population lacks safe drinking water. This indicates that 2.2 billion people lacks safely managed water at home.⁹

This infographic portrays that a staggering portion of the world's population lacks access to “safely managed drinking water,” a fundamental human right. The World Health Organization (WHO) and United Nations Children’s Fund’s (UNICEF) Joint Monitoring Programme use a “service ladder” to track progress. “Safely Managed” is the highest standard, requiring water to be “accessible on-premises, available when needed, and free from contamination”. Many people have “Basic” access but still face risks.¹⁰

II. Review of Literature

The earliest human rights documents under international law, i.e. the International Bill of Human Rights, consisting of the Universal Declaration of Human Rights (UDHR), 1948 the International Covenant on Civil and Political Rights (ICCPR), 1966 and the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 do not explicitly provide for the right to water.¹¹ However, the same can be drawn from the ‘right to adequate living conditions’ which is provided for in Article 25 of UDHR¹² and Article 11.1 of the ICESCR.¹³ Similar provisions can be found in subsequent international treaties like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979 in Article

⁹ According to Joint Monitoring Programme 2023 update estimated that in 2022, 27% of the global population lacked safely managed drinking water, available at: <http://who.int/teams/environment-climate-change-and-health/water-sanitation-and-health/monitoring-and-evidence/wash-monitoring#:~:text=The%20JMP%202023%20update%20estimated,sources%20likely%20to%be%20contaminated.> (accessed on July 16, 2025).

¹⁰ *Supra* note 8.

¹¹ H.O. Agarwal, *Human Rights* 38-80 (Central Law Publications, Allahabad, 14thedn., 2013).

¹² Universal Declaration of Human Rights, 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).

¹³ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3, 6 I.L.M. 360 (1967).

14.2,¹⁴ the Convention on the Rights of the Child, 1989 in Article 24¹⁵ and the Convention on the Rights of Persons with Disabilities, 2006 in Article 28.2(a).¹⁶ However, all of these provisions, in various contexts, explicitly declare the right to clean water and sanitation as a human right.

The United Nations Economic Commission for Europe (UNECE) had adopted the Convention on the Protection and the Use of Transboundary Watercourses and International Lakes, popularly known as the Water Convention, in Helsinki, Poland in 1992 which came into force in 1996 after the requisite number of ratifications.¹⁷ It promotes sustainable management of collective water resources and also realization of the sustainable development goals. The several other resolutions of the United Nations General Assembly and the United Nations Human Rights Council in the new century,¹⁸ especially with the Sustainable Development Goals, 2030 have further solidified the position of this core element of survival as a basic human right. In theory, all of it appears perfect, but the reality of implementation lags far behind.

In India, apart from Article 21 of the Constitution, the Water (Prevention and Control of Pollution) Act was enacted in 1974.¹⁹ The Supreme Court of India has upheld the right to water in landmark cases like the *Narmada Bachao Andolan v. Union of India*,²⁰ and yet the same had to be reiterated two decades later in 2021 by the Delhi High Court in *Delhi Sainik Co-operative Housing Building Society Ltd. (Regd.) & Ors. v. Union of India & Ors.*²¹ This calls for further study to delve into the causes of why the right to clean water and sanitation continues to become a contention in the country.

III. Objectives of the Study

The objectives of this study are three-fold, as provided below:

- i. to understand what encompasses right to water and sanitation in the world today;

¹⁴ Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

¹⁵ Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3.

¹⁶ Convention on the Rights of Persons with Disabilities : resolution / adopted by the General Assembly, 24 January 2007, A/RES/61/106.

¹⁷ Sustainable Development Goals, United Nations Economic Commission for Europe, *available at*:<https://unece.org/environment-policy/water/about-the-convention/introduction> (accessed on June 20, 2025).

¹⁸ *Supra* note 4.

¹⁹ The Water (Prevention and Control of Pollution) Act (Act 6 of 1974).

²⁰ AIR 2000 SCC 664.

²¹ W.P.(C) 8364/2018 in the High Court of Delhi.

- ii. to find out how international law seeks to provide for right to clean water and
- iii. sanitation *via* the sustainable development goals, and
- iv. to analyse the position of right to water as a fundamental right in India.

IV. Methodology

The methodology undertaken for this research paper is purely doctrinal. This paper draws on existing data from both primary and secondary sources. Primary sources include various international treaties, especially the Water Convention of 1992, resolutions of the United Nations General Assembly and Human Rights Council, and analogous documents and instruments under international law, the Constitution of India, laws and policies on water in India, relevant judgements of the courts in India, and other official sources.

Secondary sources include materials collected from several books, journals, newspapers, other media reports and relevant internet sources. The primary focus of this paper is on the implementation of Goal 6 of the Sustainable Development Goals, i.e. right to clean water and sanitation.

V. Discussion

To understand the significance of the right to water, it is necessary to delve into the various legal instruments, both at the international and national levels, pertaining to the right to clean water and sanitation. A few of these are discussed as follows:

International Law and The Right to Clean Water and Sanitation:

The need for improving access to clean water and sanitation for all sections of the society has been repetitively acknowledged globally in the past few decades. The adoption of the Water Convention in 1992 led to the creation of a unique international, intergovernmental platform to help nations navigate transboundary water issues. It is a legal instrument under the aegis of which countries sharing water boundaries can formulate their own agreements. They must take measures to prevent, control and reduce water pollution, if possible, at the source itself. Further, the precautionary principle, polluter-pays principle and sustainable use of water resources will be undertaken.²² The parties to such agreements must also establish programmes to monitor the same.²³ Initially a regional convention confined to the European

²² Convention on the Protection and Use of Transboundary Watercourses and International Lakes, Art.2.5, available at: https://unece.org/DAM/env/water/publications/WAT_Text/ECE_MP.WAT_41.pdf (accessed on June 24, 2025).

²³ *Ibid.* at Art.4.

region, the instrument was amended in the year 2016 making it globally open for accession by any United Nations Organization member state.²⁴ The institutional framework of this convention is strong, as it assists parties in implementation, exchanges experiences and good practices, elaborates guidelines and recommendations, develops legal protocols and focuses on capacity building. The approach is also different for water-rich and water-poor countries, further advancing the cause. Currently, there are 39 parties to the convention,²⁵ and India is not one of them.

The Protocol on Water and Health to the 1992 Convention was adopted in 1999 to protect human health and well-being by managing water resources better, including protecting water ecosystems and prevention, reduction and control of water diseases.²⁶ It is the first international agreement to target accomplishing a satisfactory supply of safe drinking water and sanitation for all. The same is sought to be done by the member states establishing national and local targets for quality of water, discharges, performance of water supply, and wastewater management. Thus, a social cooperation component is also introduced in water management.²⁷

The Millennium Development Goals were adopted in the year 2000 in the largest gathering of world leaders, where they pledged to attain a set of targets by the year 2015 to help extend the benefits of globalization to the poorest of nations. Although not initially set as a separate target, access to clean water and sanitation was considered under Goal 7 of environmental sustainability. The target was to reduce the population not having such access by half by 2015, which the Report of 2015 claims to have achieved to a large extent.²⁸ The years 2005-2015 were declared as the International Decade for Action 'Water for Life' under these very goals and simultaneously, other bodies and agencies also began to recognize the same.

The United Nations General Assembly *vide* its resolution 64/292 on 28 July, 2010 recognized the right to clean water and sanitation as a precursor to the attainment of all other human rights.²⁹ It called upon member states and international organizations to aid in the realisation of this right by providing financial assistance, technology transfer and capacity building, especially for the developing countries. Such access must be sufficient, the World Health

²⁴ *Supra* note 16.

²⁵ *Ibid.*

²⁶ About the Protocol on Water and Health, *available at*:<https://unece.org/environment-policy/water/protocol-on-water-and-health/about-the-protocol/introduction> (accessed on June 24, 2025).

²⁷ *Ibid.*

²⁸ *Supra* note 5.

²⁹ *Ibid.*

Organization (WHO) deems 50-100 litres water per day for each person as the same; safe, the WHO has a set of guidelines for it; acceptable, by colour, odour and taste, i.e., culturally appropriate; physically accessible, WHO deems 1000 metres from home and collection time not exceeding 30 minutes and affordable, i.e. it must not exceed 3 percent of household income according to the United Nations Development Programme (UNDP).³⁰ Therefore, right to clean water and sanitation must be sufficient, safe, acceptable, physically accessible and affordable.

The United Nations Human Rights Council took the access to water and sanitation a step further by resolving on 28 September 2011 by welcoming submission on good practices on the same wherein the Special Rapporteur emphasized on practical solutions.³¹ The World Health Organization had also adopted a similar resolution a few months prior in May 2011.³²

The report of the Millennium Development Goals 2015 made it crystal clear that the challenge to take globalization to every corner of the globe in the literal sense, like that of access to water and sanitation to the entire population on the planet, was not a minuscule one. Thereafter, the Sustainable Development Goals (SDGs) were adopted in the year 2015 to further the agenda to be achieved by 2030.³³ These are a set of 17 structured goals to be achieved by the year 2030 and include SDG 6, which is “to ensure availability and sustainable management of water and sanitation for all.”³⁴ There are eight targets, amongst which six are to be achieved by 2030, one by 2020, and another has no target year at all. The progress of the same is to be measured by eleven indicators through an integrated monitoring unit to be coordinated by the United Nations Water, Geneva. The six targets include safe and affordable drinking water; access to adequate sanitation and hygiene; improving water quality, treatment of wastewater, and its reuse; increasing the efficiency of water use and ensuring freshwater supplies; implementation of integrated water resource management; and expanding international co-operation and capacity-building support to developing countries in water and sanitation issues. The protection and restoration of water-related ecosystems was the goal set to be achieved by the year 2020 but the result of the same has not been fruitful. In

³⁰ *Ibid.*

³¹ *Ibid.*

³² International Decade for Action ‘WATER FOR LIFE’2005-2015, United Nations Department of Economic and Social Affairs, *available at*: <https://www.un.org/waterforlifedecade/background.shtml> (accessed on June 12, 2025).

³³ The 17 Goals, United Nations Organization, *available at*: <https://sdgs.un.org/goals> (accessed on June 25, 2025).

³⁴ Ensure availability and sustainable management of water and sanitation for all, United Nations Organization, *available at*: <https://sdgs.un.org/goals/goal6> (accessed on June 25, 2025).

April 2020, the United Nations Secretary-General, Antonio Guterres acknowledged that SDG 6 was going vastly off-track.³⁵ It is closely related to the other SDGs like Goal number 3, right to health and the same leads to improved attendance of children in schools, aiding in the alleviation of poverty. The final target is to support and strengthen local community participation in water and sanitation management for the long run.

Under the aegis of the SDGs, the Water Action Decade was launched on World Water Day, i.e., 22 March, in 2018.³⁶ It seeks to bring together countries and organizations to further SDG 6 by increasing awareness and create a roadmap for achieving the same.

Despite the existence of such a vast institutional framework in place, the statistics portray a different reality. Currently, about 771 million people lack a basic drinking water source accessible in a 30-minute round trip from their residence.³⁷ Another 1.7 billion lack access to basic sanitation, i.e. a toilet or latrine for a single household.³⁸ In the European region alone, an area considered advanced compared to several other parts of the world, 19 million people still lack access to improved water sources and 67 million of them face lack with regards to sanitation.³⁹ In India, although there has been marked improvement in access to water and sanitation since 1990, with a population of 1.38 billion, 6 percent still lack access to safe water which translates to approximately 90 million people.⁴⁰ Further, 15 percent lack any means of sanitation and hence, practice open defecation.⁴¹ It is estimated that \$114 billion a year would be required from the current time till 2030 to achieve the SDG 6, i.e. access to clean water and sanitation.⁴² This number truly puts the picture into perspective.

³⁵ United Nations launches framework to speed up progress on water and sanitation goal, United Nations Organization, *available at*: <https://www.un.org/sustainabledevelopment/blog/2020/07/united-nations-launches-framework-to-speed-up-progress-on-water-and-sanitation-goal/> (accessed on June 25, 2025).

³⁶ Launch of the Water Action Decade, United Nations Organization, *available at*: <https://www.unwater.org/news/launch-water-action-decade> (accessed on June 25, 2025).

³⁷ Achieving Sustainable Development Goal 6, water.org, *available at*: <https://water.org/achieving-sdg6/> (accessed on June 25, 2025).

³⁸ *Ibid.*

³⁹ *Supra* note 27.

⁴⁰ India, water.org, *available at*: <https://water.org/our-impact/where-we-work/india/> (accessed on June 25, 2025).

⁴¹ *Ibid.*

⁴² Sustainable Development Goals Report, 2022, United Nations Organization, *available at*: <https://www.un.org/sustainabledevelopment/progress-report/> (accessed on June 25, 2025).

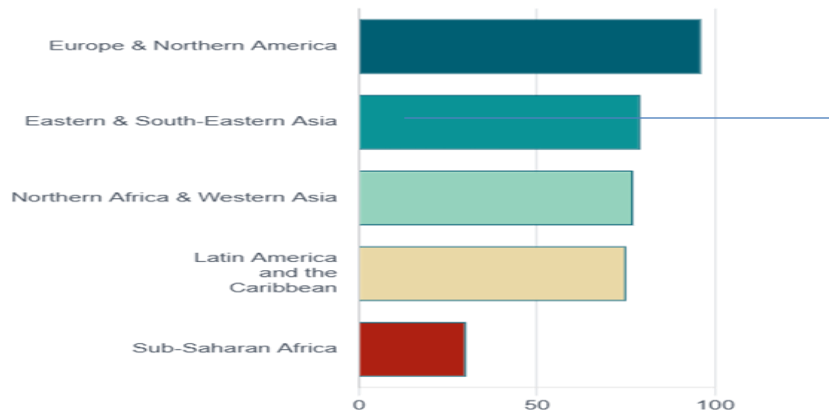


Fig 2: Regional Water Access Disparities (2020)⁴³

This chart clearly shows the dramatic difference in safely managed water access across SDG regions. While Europe and North America are near universal access with 96 %, Eastern and South – Eastern Asia have 79%, Northern Africa and Western Asia have 77%, Latin America and the Caribbean have 75%, whereas Sub-Saharan Africa lags far behind at only 30%. Thus, it is pertinent to state that there is an urgent requirement to accelerate the progress into six-fold in order to achieve 6.1 Goal of SDGs. However, the estimated investment required to meet SDG 6 globally is over \$1.37 trillion, which appears to be unachievable.

THE URBAN-RURAL DIVIDE (2020)

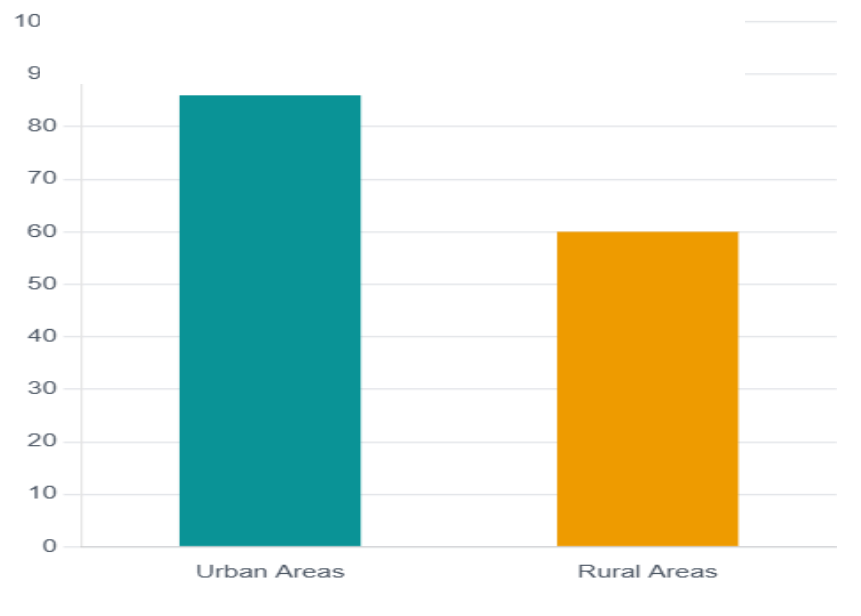


Fig.3: The Urban-Rural Divide (2020)⁴⁴

⁴³ S. L. Young, H. J Bethancourt, et.al., “Estimating national, demographic, and socioeconomic disparities in water insecurity experiences in low-income and middle-income countries in 2020–21: a cross-sectional, observational study using nationally representative survey data”, 6, *The Lancet Planetary Health* e880-e891(2022).

This chart showcases the global disparity amongst the people in rural and urban areas with regard to safely managed water. Four out of five people without even basic water access live in rural areas, highlighting a critical need for targeted rural development.

In this chart, 86% of the people residing in the urban areas have access to safely managed water, whereas, only 60% of the people residing in the rural areas have managed to access the same.

The World Health Organisation Report 2021⁴⁵ states that there was progress towards the goal of universal access to basic WASH services from 2016 to 2020. The percentage of people who have access to safe drinking water at home increased from 70% to 74%, the percentage of people with access to safe sanitation services decreased from 47% to 54%, and the percentage of people with access to facilities to wash their hands with soap and water increased from 67% to 71%. However, 81% of the world's population still lacks access to safe drinking water at home, 1.8 billion people; 67% lacks access to safe sanitation services; and 78% lack basic handwashing facilities, 1.9 billion people without access.⁴⁶ This shows that there is a big hole in the target date for SDG-6, which is to provide everyone with access to safe drinking water and sanitation by 2030. The research goes on to say that diarrhoeal infections caused by things like lack of clean water, improper sanitation, and hygiene practices kill almost 297,000 children younger than five every year.⁴⁷

Indian Law and The Right to Clean Water and Sanitation

India, one of the most populous nations, confronts several district-level hurdles in attaining SDG 6. Despite various attempts by the Indian government, rural and marginalised people still lack clean water and sanitation. While India has enhanced access to clean drinking water and sanitation in recent years, a large population still lacks these services.

⁴⁴ UNICEF, Snapshot of Global and Regional Urban Water, Sanitation and Hygiene Inequalities, *available at*: <https://www.unicef.org/media/91561/file/Snapshot-of-global-and-regional-urban-water-sanitation-and-hygiene-inequalities.pdf> (last visited on 16th July, 2025).

⁴⁵ WHO. Billions of People Will Lack Access to Safe Water, Sanitation and Hygiene in 2030 unless Progress Quadruples – Warn WHO, UNICEF (2021), *available at*: <https://www.who.int/news/item/01-07-2021-billions-of-people-will-lack-access-to-safe-water-sanitation-and-hygiene-in-2030-unless-progress-quadruples-warn-who-unicef#:~:text=:text> (last visited on 16 July, 2025),

⁴⁶ *Ibid.*

⁴⁷ A. Prüss-Ustün, J. Wolf, et al., “Burden of disease from inadequate water, sanitation and hygiene for selected adverse health outcomes: an updated analysis with a focus on low-and middle-income countries,” *International Journal of Hygiene and Environmental Health*, 22 (5) 765 (2019).

According to the JMP for Water Supply, Sanitation, and Hygiene, 71% of Indians had access to basic sanitation in 2019, while just 54% had safe sanitation.⁴⁸ Even while 87% of the population had access to essential services, just 44% had safe drinking water.⁴⁹ Poor hygiene and lack of water and sanitation lead to waterborne illnesses in India. Some regions of the nation still practise open defecation, and soap hand-washing is rare.⁵⁰ India and other impoverished, rising countries must attain SDG-6. The objective will enhance health and reduce regional inequities if achieved. Developed countries must help developing ones.⁵¹

⁴⁸ WHO/UNICEF, Progress on household drinking water, sanitation and hygiene 2000-2019: Special focus on inequalities, *available at*: <https://www.who.int/publications/i/item/9789240029235> (accessed on 15 July, 2025).

⁴⁹ *Ibid.*

⁵⁰ S. Divyashree, L.E.B. Nabarro, et.al., “Enteric fever in India: current scenario and future directions,” *Tropical Medicine & International Health* 21(10) 1255 (2016).

⁵¹ S.Biswas, B.Dandapat, et.al., *India’s achievement towards Sustainable Development Goal 6 (Ensure a availability and sustainable management of water and sanitation for all) in the 2030 Agenda* BMC Public Health 22 (1) 1 (2022).

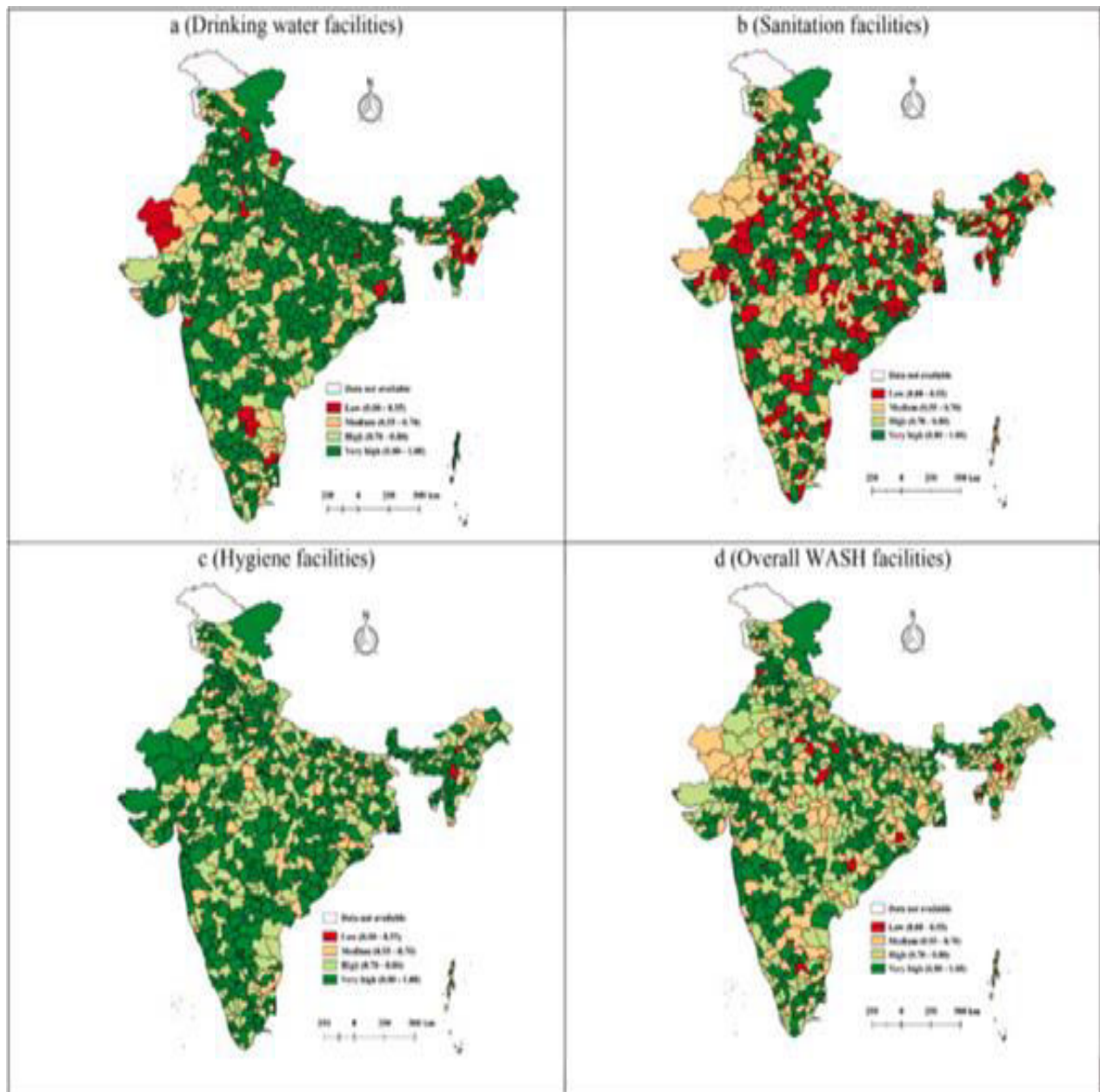


Fig 4(a–d): District-level spatial distribution of (a) drinking water, (b) sanitation, and (c) hygiene (d) WASH coverage.⁵²

The drinking water composite index, i.e., figure 4(a) shows that there are a lot of drinking water facilities in India's northern areas. There are moderate to high numbers of drinking water facilities in the middle part of India. On the other hand, there are moderate to low numbers of facilities in the western districts of Rajasthan and in the north-eastern districts of Assam and Meghalaya. Coverage ranges from very low to very high in India's southern areas. The sanitation coverage composite score [Figure-4(b)] showed that most Indian districts have

⁵² S. Biswas, M. Adhikary, et.al., "Disparities in access to water, sanitation, and hygiene (WASH) services and the status of SDG-6 implementation across districts and states in India" 10.

low to medium coverage of sewage services. The Western and Central Indian districts have the worst coverage. In the rest of the areas, too, there were only a few to a few public restrooms. The hygiene composite index [Figure-4(c)] showed that most Indian districts had high to very high coverage of hygiene facilities. This is a good sign that WASH goals are being met. Figure 4: d shows the WASH composite index. It shows that most districts have high to very high coverage of WASH facilities. This should help India reach its SDG-6 goals. There is a link between the bad WASH conditions in eastern Indian states and more people living in poverty, lower levels of social and human growth, and worse quality of life for households.⁵³

The results show that to improve cleanliness in Western and Central Indian areas; help needs to be more specifically focused. Rajasthan has a dry and semi-dry climate, and it doesn't rain much, which makes managing water supplies very difficult.⁵⁴ Also, rural parts of the state often don't have enough water because underground supplies are being used up too quickly, infrastructure isn't good enough, and water management isn't working well. In the same way, it is hard to make sure that all families in the north-eastern regions of Assam and Meghalaya have access to clean drinking water because the areas are rocky and far away.⁵⁵ There may not be many sanitation services in Western and Central Indian areas. This could be because of a lack of infrastructure, bad trash management, or people not knowing how important it is to use proper sanitation. Also, the social and cultural norms in some places might make it hard for people to use toilets and other better cleaning practices. This is important to keep in mind: the things that make WASH facilities less common can be different in different groups and areas. To solve these problems, we need community-led, situation-specific solutions that take into account the social, economic, and natural factors in the area.

However, in India, the judiciary has played a significant role in upholding the right to water and sanitation as a fundamental right. Article 21 of the Constitution, with the provision for right to life and personal liberty has played a significant role in aiding the courts to uphold various human rights which are not explicitly stated in the laws. Further, Article 39(b)⁵⁶ mandates that the “State shall, in particular, direct its policy towards securing that the

⁵³ P. Ghosh, M. Hossain, A. Alam Water “Sanitation, and Hygiene (WASH) poverty in India: a district-level geospatial assessment” *Regional Science Policy and Practice* 14 (2) 396 (2022).

⁵⁴ S. Singh, V. Singh, S. Kumar, “Assessment of water resources in development of Rajasthan Wastewater Assessment, Treatment, Reuse and Development in India” *Springer* 239 (2022).

⁵⁵ S. Chaudhuri, M. Roy, L.M. McDonald, Y. Emendack, “Water for all (hargharjal): rural water supply services (RWSS) in India (2013–2018), challenges and opportunities”, *International Journal of Rural Management*, 16(2) 254 (2020).

⁵⁶ The Constitution of India, 1950.

ownership and control of the material resources of the community are so distributed as best to sub serve the common good.” Article 47 also directs the state to raise the level of nutrition and standard of living and to improve public health,⁵⁷ and Article 262⁵⁸ provides for adjudication of water disputes between states.

The Supreme Court of India held way back in the year 1991, “The right to life includes the right of enjoyment of pollution-free water and air for full enjoyment of life”.⁵⁹ When untreated effluents discharged by agricultural fields polluted the groundwater by percolation in parts of Tamil Nadu, the Apex Court recognized the common law right of a citizen to a clean and healthy environment and awarded compensation to the petitioners on the basis of the ‘precautionary principle’ and ‘polluters pay principle.’⁶⁰

Thereafter, along similar lines, in *Mehta v. Kamalnath*,⁶¹ by referring to the principle of “*salus populi est suprema lex*” (which means the welfare of the people is paramount), the Supreme Court emphasized the responsibility of the state to ensure that water is clean and to prevent health concerns among its citizens. Additionally, the judges ruled that the failure of the state to “provide safe drinking water” to citizens constituted a violation of Article 21 of the Constitution. This was stated in the case of *Vishala Kochi Kudivella Samarkshana Samithi v. State of Kerala*.⁶² The court specifically stated that the government “*is bound to provide drinking water to the public*” and that this should be the responsibility of the government that takes precedence.⁶³

The Indian judiciary has further examined various bases for the right to clean water. In several circumstances, the right has therefore been related primarily to Article 47 of the Constitution. In *Hamid Khan v. State of Madhya Pradesh*,⁶⁴ the government was sued for not taking adequate care to guarantee that the drinking water provided via hand pumps in Mandla District was free from excessive fluoride. It was found that, under Article 47, the state has the responsibility to ‘improve the health of the public by providing unpolluted drinking water.’⁶⁵ The judges first ruled on this ‘primary responsibility’ of the state and then went on to declare that Article 21 also addresses the matter. They concluded on the basis of Articles 47 and 21

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420.

⁶⁰ *Vellore Citizens’ Welfare Forum v. Union of India*, AIR 1996 SC 2715.

⁶¹ AIR (1997)1SCC 388.

⁶² 2006 (1) KLT 919 (High Court of Kerala).

⁶³ *Ibid.*

⁶⁴ AIR 1997 MP 191.

⁶⁵ *Ibid*, para 6.

that the state had a responsibility ‘towards every person of India to provide clean drinking water.

The court continued to uphold similar judgements in relation to the environment, including the landmark Narmada Bachao case judgement⁶⁶ wherein the court 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 the right to a healthy environment and to sustainable development are fundamental human rights implicit in the right to life.” Despite such observations by the Supreme Court, the Delhi High Court had to reiterate the right to water and sanitation as a basic right in the *Delhi Sainik Co-operative Housing Building Society Ltd.* Case decided in 2021.⁶⁷ Such situations make it evident awareness with regard to what constitutes the right to water and sanitation is still either lacking or not paid much attention to by people.

As far as the legislations are concerned, Section 7 of the Indian Easements Act, 1882 already provides for the rights of a riparian owner.⁶⁸ The Water (Prevention and Control of Pollution) Act, 1974 empowers boards to carry out a variety of functions in consonance with its objective of access to clean water and sanitation for all⁶⁹ along with the Environment Protection Act of 1976.⁷⁰ The Government of India began delayed efforts in the year 1987 with its first National Water Policy in response to a severe drought in the country which was amended and updated in 2002.⁷¹ However, a new National Water Policy was adopted in 2012 to address the issue of water scarcity by focusing on issues like water pricing and optimal use of water resources.⁷² To aid the same, the Central Water Commission functions as a leading technical organization of the country in the field of water resources⁷³ and is currently attached as an office of the Ministry of Jal Shakti, Government of India formed in May 2019.

Several initiatives have been launched by the Indian government in order to address these challenges pertaining to clean water and hygiene. One of these initiatives is the SBA (Clean India Mission), which was launched in 2014. The objective of this mission is to achieve universal sanitation coverage and make India free of open-defecation by the year 2022.

⁶⁶ *Supra* note 18.

⁶⁷ *Supra* note 19.

⁶⁸ The Indian Easements Act, 1882 (Act 5 of 1882).

⁶⁹ *Supra* note 17.

⁷⁰ The Environment Protection Act, 1976 (Act 29 of 1986).

⁷¹ Right to Water, National Human Rights Commission Report 2021, India, *available at*: <https://nhrc.nic.in/sites/default/files/Right%20to%20water.pdf> (Visited on June 25, 2025).

⁷² *Ibid.*

⁷³ *Ibid.*

However, the COVID-19 pandemic has also brought to light the urgent need for improved WASH infrastructure and behaviour change initiatives in India.⁷⁴ A flagship effort of the Indian government, the Jal Jeevan Mission (JJM) was inaugurated on August 15, 2019, with the ambitious objective of supplying safe and enough drinking water to every rural home in the nation by the year 2024 via the installation of functional household tap connections (FHTCs). Ever since then, this deadline has been pushed out to the year 2028.⁷⁵ The results of the same remain to be witnessed. While the mission aims to provide safe tap water to every rural household, it failed to achieve its objectives in certain states like Assam due to corruption practices and irregularities, which significantly hampered the effective implementation of the Jal Jeevan Mission (JJM) in Assam. There are allegations that many JJM projects in Assam were granted to relatives and close allies of the Minister for Public Health Engineering, Jayanta Malla Baruah. This practice has resulted in less competitive bidding, decreased quality, and a distinct conflict of interest and eventually led to the downfall of the operation of JJM in Assam.⁷⁶ Thus, such issues undermine the mission's noble goal of providing safe drinking water to all rural households and highlight the critical need for greater accountability and transparency.⁷⁷

VI. Conclusion

Water, although seemingly available in abundance in its original state, remains the most precious entity on this planet; at times referred to as 'blue gold'. As the world wakes up to the destruction and pollution it has caused over the last few centuries, especially with industrialization, scarcity of clean drinking water and sanitation has become a stark global reality. With a section of the human population with access to the best of living conditions, a larger section remains unable to access basic facilities like water. It took the United Nations Organization several decades from its inception in 1945 to the year 1992 to firmly recognize the right to water at an international level through the adoption of the Water Convention. The same was still a regional treaty that could be accessed only by the pan-European countries and was opened for signature to the rest of the world in 2016. Its subsequent Protocol of 1999 does put forward valid concerns and provisions, but the same had also been out of reach for most part of the world till recently. The Millennium Development Goals of 2000 in the

⁷⁴ *Supra Note* at 53.

⁷⁵ *Ibid.*

⁷⁶ D.Mahanta, "Jal Jeevan Mission in Assam faces funding crisis among Corruption Allegations," *G Plus*, 12th October, 2024, available at: <https://guwahatiplus.com/exclusive-news/jal-jeevan-mission-in-assam-faces-funding-crisis-amid-corruption-allegations> (accessed on 16 July, 2025).

⁷⁷ *Ibid.*

conference at Johannesburg in 2002 did give recognition to water and sanitation but failed to meet the global goals by 2015. During the same, the United Nations General Assembly adopted a resolution in 2010 acknowledging right to clean water and sanitation as a basic human right, in fact, as a predecessor to all human rights. It paved the way for a better theoretical understanding of what constitutes this right with the aid of the World Health Organization and the United Nations Development Programme. The 17 Sustainable Development Goals (SDGs) succeeded the MDGs which highlighted access to clean water and sanitation as one of its primary goals (SDG 6). In furtherance of the same, the Water Action Decade (2018-2028) was launched to raise awareness. India also has landmark judgements on right to water as a fundamental right under Article 21 of the Constitution, a few legislations focusing on prevention and control of water pollution and a national water policy in place. In addition, the Jal Jeevan Mission seems to be a bold target. Therefore, on paper, all of it appears to be in place but the statistics speaks volumes and portrays the entire world to be in imbalance with regard to water resources. Therefore, the inclusion of the right to clean water and sanitation in the SDGs is extremely significant. Although most part of it is theory, it is trying to create a roadmap for implementation. It is providing the agencies a record of how much more work is to be done with regard to water and sanitation. The goals on their own may not seem much. However, it will have a major impact if the member states and international organization work towards its achievement at all the levels of community; local, state, national and global.