

## INTERNATIONAL PACE TOWARDS SANITATION: LEGAL FRAMEWORKS AND POLICIES

*Kabita Chakraborty\* & Poulami Chakraborty\*\**

### Abstract

The Right to Sanitation has emerged as a fundamental human right in the framework of international law, closely linked to the rights to health, dignity, and an adequate standard of living. The United Nations has been at the forefront of recognizing sanitation as essential for human well-being and sustainable development. In 2010, the UN General Assembly explicitly acknowledged the Right to Sanitation as part of the human right to an adequate standard of living under Resolution 64/292. Furthermore, the UN Committee on Economic, Social and Cultural Rights (CESCR), in General Comment No. 15 (2002), clarified that sanitation is an indispensable part of the right to adequate housing and the right to health as stipulated in the International Covenant on Economic, Social and Cultural Rights (ICESCR). International organizations, including the World Health Organization (WHO) and UNICEF, promote access to safe, affordable, and equitable sanitation for all, emphasizing its role in preventing disease and promoting human dignity. The Sustainable Development Goals (SDGs), particularly Goal 6, aim to ensure availability and sustainable management of water and sanitation for all by 2030. This global recognition establishes a legal and moral obligation for states to ensure universal access to sanitation services, particularly for marginalized and vulnerable populations.

*Keywords: Sanitation, Fundamental Human Rights, WHO, International Organization, Sustainable Development.*

- I. Introduction**
- II. International Instruments & Right to Sanitation**
- III. Convention on the Rights of the Child with Disabilities**
- IV. Global Constitutional Provisions on the Right to Sanitation**
- V. Legislative Perspective of Sanitation for Less Developed Countries**
- VI. WHO Guidelines on Sanitation: Definition, Recommendation and Structural Standard for Quality Hygiene and Waste Management**
- VII. Conclusion**

### I. Introduction

THE SANITARY rights in India were in existence way before universal acceptance, dated back to the era of Indus Valley civilization, but there was no legal framework acknowledging the same which was for the first time incorporated by the Universal Declaration of Human Rights (hereafter, UDHR). The pertinent stipulation of UDHR has been highlighted in this chapter. This article provides a clear idea about the various international conventions, treaties and resolutions adopted by the UN General Assembly ratified by almost 193 countries lately. The UN General Assembly has enacted covenants to confront sanitary issues of the disadvantaged and underrepresented population of the society including female, children and physically disabled persons,*etc.*, and their concerns are put at the top priority. The Special Rapporteur collects facts

---

\* Professor, Faculty of Law, ICFAI University, Tripura.

\*\* Guest Lecturer, Faculty of Law, ICFAI University Tripura.

and data showing the real scenario of sanitary conditions across countries and periodically reports to Human Right Council of General Assembly and suggests practical issues to eliminate those discrepancies. It primarily focuses on eliminating open defecation worldwide and improving the sanitary infrastructure by increasing budget allocation and incorporating technological innovations in toilet designing. It mandates the member state to eliminate the water and sanitation issues of its nation by adopting innovative policies and technological innovations at local and regional level depending on the nation's budget and structure. It makes sure that the policies reflect gender-sensitive approaches and is sustainable in nature to fulfill the Millennium Development Goals of sanitation. It also advises States to seek for international cooperation in matters of technical assistance and finance when needed and to seek help from local and regional committees as well to uplift the sanitary conditions of the respective States. It advises to incorporate public-private approach to provide advanced sanitary solutions with respect to public toilets. Also, it advises each state to create an accountable model to hold the duty bearers liable for not fulfilling their duties.

Further, this article also highlights the global constitutional stand of sanitation and the sanitary laws and guidelines of the developed nation like UK and of the less developed nation like South Africa, Tanzania and Uganda. Moreover, this chapter also reflects the South Asian stand on sanitation highlighted in the reports of South Asian Conferences on Sanitation (hereafter, SACOSAN).

Lastly, this research paper highlights the recommendations of (World Health Organisation, WHO) regarding sanitation starting from establishment of toilet to secured removal of excrement, keeping in mind the needs of vulnerable sections to reduce various diseases and infections related to sanitation like diarrhoea, acute respiratory disorders, helminthiasis, sepsis, morbidity and mortality, *etc.*

## II. International Instruments & Right to Sanitation

### Universal Declaration of Human Rights, 1948

UDHR is a noteworthy statement in the archive of human rights. Envoys from all over the world with varying legal and cultural backgrounds, draught down this instrument, to establish universal protection for fundamental human rights of citizens for the first time. It guarantees everyone shall have the right to social safety net and the accomplishment of the, socio- economic and cultural entitlements that are indispensable to uphold his esteem and the acceleration of his temperament, by way of State-led initiatives and transnational collaboration as well as according to each State's structure and resources.<sup>1</sup> It ensures the valid claim of all to have the right to an efficient quality of living including procurement of enough food, clothing, housing, medical attention, and essential social services for himself and his families health and well-being.<sup>2</sup>

### Stockholm Conference, 1972<sup>3</sup>

Stockholm conference is the first International conference held in Stockholm,

---

<sup>1</sup>Universal Declaration of Human Rights, 1948, Art.-22.

<sup>2</sup>*Ibid.*

<sup>3</sup>Report of the United Nations Conference on the Human Environment, *available at*: <https://documents.un.org/doc/undoc/gen/nl7/300/05/pdf/nl730005.pdf>, (last visited April 28, 2025).

Sweden from 5<sup>th</sup> to 16<sup>th</sup> June, 1972 that prioritized “environment” as a pressing issue. Principle 1 provided that everyone shall have a valid claim to a decent lifestyle standard including the right to live in a quality environment that endorses a life of respect and well-being. And to retain a clean and healthy environment he shall be equally responsible to protect it so that a clean environment can be preserved for future generation as well.

To conserve and protect the environment the Declaration suggested an action plan categorized under 3 heads:

- a. Watch plan: to assess the condition of environment globally by way of research and information sharing.
- b. Environmental management: based on the global condition of environment setting up goals to improve the pathetic condition. Each region can seek international consultation and co-operation to improve the condition of environment by meeting the goals set.
- c. Supporting measures: it includes international co-operation in fund allocation, technical assistance, exchange of information in improving the quality of environment.

India in order to implement the principles of Stockholm conference has enacted The Environment (Protection) Act, 1986 mandating the duty of Central Government and State Government to provide a clean environment to its citizen. And thus providing a clean toilet to the users at every public place is also the responsibility of the government, to make sure that its citizen enjoys a dignified life.

### **International Covenant on Economic, Social and Cultural Rights, 1966**

This convention was opted by UN General Assembly Resolution 2200A (XXI) on December 16, 1966 and became a sound legal instrument on January 3, 1976, in accordance with the UDHR, recognizing the social, economic and political rights of everyone. It provides that everybody shall have a just claim right to an improved quality of lifestyle for themselves and their families, which includes attainment of enough food, clothing, housing, as well as the ongoing improvement of living conditions. The state parties with free consent-based international co-operation will take necessary steps, to guarantee its citizen the enjoyment of this right<sup>4</sup>. Thus, the State parties must recognize the right to enjoyment of the highest feasible standard of physical and mental health to all.<sup>5</sup>

### **Convention on the Elimination of All Forms of Discrimination against Women, 1979**

This instrument was embraced by UN General Assembly Resolution 34/180 on December 18, 1979 and gained legal acceptance on September 3, 1981 after being ratified by the twentieth country. Nearly 100 countries have consented to be bound by the Convention’s term by its tenth anniversary in 1989.

The United Nations Commission on the Status of Women, which was founded in 1946, worked for more than thirty years towards the convention to monitor the conditions of women and advance their rights. The Commission’s efforts have been crucial in highlighting all the ways where women were not treated equally as men. It provides that enjoyment of an improved and

---

<sup>4</sup> International Covenant on Economic, Social and Cultural Rights, 1966, Article-11(1), available at:

<sup>5</sup> *Ibid.*

satisfactory quality of lifestyle, particularly in relation to housing, sanitation, electricity and water supply, transport and communications, shall be handy for all women to eliminate any disparity against them especially in rural areas. It shall be the obligatory duty to State parties to take satisfactory measures to provide them with the same.<sup>6</sup>

### **Convention on the Rights of the Child**

It was adopted by UN General Assembly Resolution 44/25 on November 20, 1989 and became a sound legal instrument on September 2, 1990, remembering that the UN affirmed in the UDHR that the children should get special care, attention and support. It mandates the state parties to support and educate each and every section of citizens, especially parents and children, regarding pediatric well-being, nutrition, and the benefits of hygiene and ecological sanitary conditions<sup>7</sup>. It also reinforces the child's right to the enjoyment of the most effective level of health and facilities for the treatment of illness and rehabilitation of health that is feasible and practical.<sup>8</sup>

### **III. Convention on the Rights of the Child with Disabilities**

This legal standard was adopted by the sixty-first session of the General Assembly by resolution A/RES/61/106 on December 12, 2006 and was officially embraced as a legal enactment on May 3, 2008. The convention highlighted the dynamic perspective of disability. The people with disabilities faces environmental and attitude barriers that hinder their right to equally, fully and effectively participate in the society like others. Thus, this convention realizes the importance of mainstreaming disability issues by formulating and evaluating policies, agendas and undertakings at international, domestic and regional levels to ensure equality in prospects for disabled persons. It also provides that the person with disabilities shall have means to social safeguard in absence of any oppression and the same shall be assured by the respective State.<sup>9</sup>

### **UN General Assembly Resolutions**

In the 21<sup>st</sup> century, the demand for sanitation has made significant progress on global scale<sup>10</sup>. Therefore, the UN General Assembly has drafted many international human right treaties and conventions and took multiple resolutions that mentioned the significance of water and sanitation either separately or jointly and reflected the status of sanitation, including the improvement and worsen condition of its member State and the recommendations accordingly to improve the worsen sanitary condition and achieve the 2015 Millennium Development Goals. The UN General Assembly espoused the aim to uplift the social, economic, political and cultural rights to everyone. Therefore, it has defined sanitation as the “basic amenities” needed for attaining a satisfactory quality of lifestyle ensuring health, safety, social security, privacy and everything that leads to enjoyment of a dignified life. To ensure the same

UN General Assembly has collected data regarding the worldwide status of sanitation of

<sup>6</sup> Convention on the Elimination of All Forms of Discrimination against Women 1979, Article- 14 (2)(h), *available at*

<sup>7</sup> Convention on The Rights of The Child, Article- 24 (2) (e), *available at*

<sup>8</sup> Convention on The Rights of The Child, Article-24 *available at*

<sup>9</sup> Convention on the Rights of Persons with Disabilities, Article-28(2)(a), .

<sup>10</sup> Indu Bala, *Right to Sanitation in India A Socio Legal Study with Special Reference to Lucknow City Uttar Pradesh*, (2022) (Unpublished PhD Thesis, Babasaheb Bhimrao Ambedkar University). *available at*

various nations and its impact upon public health and accordingly suggested various recommendations to improve the same on a regular basis. It has independent bodies like UN Special Rapporteur who continues reporting annually by collecting insights about the worldwide sanitary conditions and requests the United Nations High Commissioner for Human Rights to hold the expert pick-ups crucial for framing suitable recommendations. To reflect the same in national policies the governments of each State are also requested to retaliate favourably by allowing international visits and sharing of information with the specialized organizations, take into considerations the measures taken by the Special Rapporteur, conducting periodical follow up on recommendations and provide accurate information during follow-ups.<sup>11</sup>

“Articles 11 and 12 of the International Covenant on Economic, Social, and Cultural Rights which impliedly covers the right to water under the ambit of right to an improved satisfactory level of living”, is generally what the UN General Assembly has resolute under General Comment Number 15. However, it was only in 2006 that the Right to Sanitation along with Drinking Water was recognized by the Sub- Commission on the Promotion and Protection of Human Rights. A study on equitable access to clean drinking water and sanitary facilities was submitted in 2007 by the former High Commissioner for Human Rights who expressed that it is now time to recognize both the availability of safe drinking water and sanitation as a basic human right and all shall have equal and non-discriminatory access to the same for both personal and domestic uses like drinking, private sanitation, cleaning clothes, preparing food, and personal and household hygiene to support existence and vitality.”<sup>12</sup>

The International Human Rights laws were outlined with the end goal that sanitation and water were thought of as together. Accordingly, more consideration was paid to the right to water, and the right to sanitation was ignored. The lawful instruments at the global level elude water and sanitation as ‘a basic liberty’, and not ‘common freedoms’. The endeavor to perceive a distinct right to sanitation was started only in 2010 with the drive of the UN Special Rapporteur on the human right. The Extraordinary Rapporteur contended that sanitation is an unmistakable right on account of its particular poise aspects and in this manner ought to be treated as an unmistakable distinct human right. This is probably the initial step towards an explicit identification of a distinct right to sanitation at the international level.<sup>13</sup>

There are several reasons why the right to sanitation should become a separate right:<sup>14</sup>

- i. The right to sanitation will become a legal entitlement rather than a charity or merely a moral priority if it is explicitly recognized by the law. It should be something which is given naturally and not asked for.
- ii. A legal entitlement gives the right holders the chance to hold responsibility bearers responsible.
- iii. ‘Vulnerable and marginalized groups’ interests and concerns will get top consideration.

<sup>11</sup>United Nations Human Rights Office Of The High Commissioner “About The Mandate” Special Rapporteur On The Human Rights To Safe Drinking Water And Sanitation., *available at*: <https://www.ohchr.org/en/special-procedures/sr-water-and-sanitation/about-mandate>, last visited : 12<sup>th</sup> April, 2025

<sup>12</sup>*Ibid.*

<sup>13</sup> Sujith Koonan, *Right To Sanitation In India- Nature and Scope*, 3, International Environment Law Research Centre, Published in : K.J. Joyand Sarita Bhagat (eds) *Right To Sanitation In India- Nature, Scope and Voices from the Margins* ( Pune : Forum for Policy Dialogue on Water Conflicts in India, 2016), *available at*: <https://www.ielrc.org/content/a1608.pdf>, last visited: 2<sup>nd</sup> April, 2025

<sup>14</sup> *id.* at 4.

The UN General Assembly took multiple resolution in promoting public sanitation and public health worldwide. It cast a duty upon each respective state to speak to and take effectual steps in matters relating to sanitation and to banish any kind of discrimination. Therefore, it instructs state to build up a constructive surrounding and to greet the issue of lack of sanitation and its impact upon public health at all levels. In order to do so it recommended collecting accurate information about regional sanitation coverage and then develop national and local plan of action. Such plans should reflect a gender-sensitive approach in policymaking with reference to special needs of women and girls, focusing on menstrual health and hygiene and to prioritize the needs of vulnerable and marginalized section of the society. To carry out the plan each State can seek for international cooperation and technical assistance from the specialized agencies of the United Nations system, international and development partners, regional and local level partner and other donor agencies. It also overstretches the importance of private sector inclusion while hailing the issue of ingress to sanitation. It clearly outshines institutional responsibilities and the suitable encompassment of sanitation in national poverty depletion. It provides for establishing a governance and liability frameworks and mechanisms for holding the duty bearers responsible for non-fulfillment of their duties. For uplifting sanitation there is an utmost need of public participation as spotlighted by UN General Assembly Resolution for which promoting behaviour change is inevitable which can be achieved by conducting large-scale public awareness campaigns in sanitation for hygiene promotion. And for achieving worldwide success in sanitation, maintenance of transparency in policy planning as well as fund allocation is of paramount importance.<sup>15</sup>

### **Sustainable Development Goal6 (SDG6):<sup>16</sup>**

Both the access to safe drinking water and sanitation is equally important for maintaining public health and well-being, but more priority is often given to water than sanitation. Due to excessive population growth, urbanization, and increasing water needs in almost every sector, people will start lacking these services worldwide by 2030, unless these services progress quadruples. Climate change and rising global temperatures are causing water scarcity. Investments in infrastructure, sanitation facilities, ecosystem restoration, and hygiene education are needed to ensure universal access by 2030. Positive progress has been made. Though the standard of water and availability of safe and clean water was elevated from 69% to 73% within 2015 to 2022, but sanitation has still remained off track.

Therefore, the Goal 6 targets to provide every person equal access to safe and affordable drinking water and adequate sanitary standards and eliminate open defecation totally by the end of 2030, globally. In order to provide adequate access to water and sanitation it aims to increase international co-operation in financial and technical assistance for capacity building of each region. It also encourages the local people and communities to participate in this process especially for collection of in-depth data to prepare fact sheet and to get root level idea of the

---

<sup>15</sup> United Nations Human Rights Office Of The High Commissioner, "About the mandate Special Rapporteur on the human rights to safe drinking water and sanitation." *available at* : <https://www.ohchr.org/en/special-procedures/sr-water-and-sanitation/about-mandate>, (last visited April 12, 2025).

<sup>16</sup> Sustainable Development Goals, "Ensure Access to Water and Sanitation For All," *available at*: <https://www.un.org/sustainabledevelopment/water-and-sanitation>, (last visited April 9, 2025).

discrimination for targeting the most marginalized and depressed group. It also mandates reduction of pollution especially of water by elimination the release and emission of obnoxious and hazardous substances in water and to treat the wastewater to enhance the quality of water by 2030. It also held, to opt for trans-boundary collaboration for preservation of water related habitats including water bodies, mountains, forests, wetlands, rivers, aquifers, and lakes, for restoration of the same.

However, though the rights of sanitation have been recognized but still we can see that more emphasis is given to water and for protection and restoration of water bodies, than sanitation which demands more attention to uplift public health. In India, to improve the condition of sanitation in almost every region especially in urban areas, apart from eliminating open defecation which has almost been achieved, those resolutions and goals of UN shall be adopted which focuses more on building and modification of available public toilets and proper maintenance and up keeping of the same. Because now almost every person has to go out from their home either it be for education in educational institutions, hospitals as working staffs or patient or patients family for treatment or it be in any other place of employment or enjoyment, *etc.*, irrespective of gender and therefore it is the right of everyone to have access to a clean, safe and hygienic toilet with all the basic amenities focusing the needs of each and section of society, wherever they go, other than only focusing on household sanitation. If this is ensured, only then the public health and sanitation will be elevated more strongly.

#### IV. GLOBAL CONSTITUTIONAL PROVISIONS ON THE RIGHT TO SANITATION

##### **Uruguay's Constitution, 1966**

No person shall destroy damage, degrade or contaminate the environment and necessary natural resources like water and if anyone does the same the violators shall be liable for penalty. It also considered access to sanitary facilities and clean drinking water as an essential human rights. Solely, State authorized bodies shall be able to directly and solely provide the public services of sanitation and water supply for human consumption.<sup>17</sup>

##### **Constitution of Ecuador, 2008**

It acknowledges the population's entitlement to a healthy and sustainability balanced environment that ensures safe ecology and a healthy lifestyle. It has deemed preservation of the environment, preservation of biotic, conservation of diversity of life, maintenance of the nation's congenital resources and reinstating damaged natural areas and resources, a public interest<sup>18</sup>.

##### **South Africa's Constitution, 1996**

Everybody deserve store side in a safe and healthy environment. For this the environment shall be safeguarded and nurtured for perpetual succession to meet the need of today's as well as the

<sup>17</sup> Uruguay 1966 (re inst. 1985, rev. 2004), Constitute, art. 47 available at: [https://www.constituteproject.org/constitution/Uruguay\\_2004](https://www.constituteproject.org/constitution/Uruguay_2004), (last visited : April 13, 2025).

<sup>18</sup> TITLE II: Rights CHAPTER 2: Rights of the good way of living SECTION 2: Healthy environment ARTICLE14, Ecuador's Constitution of 2008 with Amendments through 2021, Constitute, PDF generated 26<sup>th</sup> August 2021, 16:27, available at: <https://www.wipo.int/wipolex/en/legislation/details/21291>, last visited: 13<sup>th</sup> April, 2025

upcoming generations through a sound and impressive legislation creating dominance and borrow the measures to dissipate pollution such as declination of ecological balance, fostering conservation, and make use of ecology and its natural resources in a manner so that it can be kept for coming generation as well, while enabling fair economic and social development<sup>19</sup>.

### **The Kenya's Constitution**

Every individual is entitled to live in a tidy and wholesome and well-rounded environment, which includes keeping the environment preserved and restored for consistent benefit by way of laws and other additional crucial actions.<sup>20</sup>It is categorized under 3 heads<sup>21</sup>:

- i. To theutmostachievabledegreeofwell-beingandhealth,whichencompasses what's needed
- ii. To appropriate and accessible sanitary facilities.
- iii. To sufficient amounts of safe and clean water; and to social security;

And upon violation or infringement of the same or threatening of violation or infringement of the same, a person may file a petition before the Court of Law for redresser of the violation and the court may direct any order or give any guidance it deems suitable<sup>22</sup>-

- i. To avoid, halt, or cease any action or in action that could affect t he surroundings;
- ii. To order any public official to take action to stop or prevent something that damages the environment, whether via action or inaction; or
- iii. To provide just and fair compensate to those whose rights to live in a wholesome environment has been infringed.

### **Panama1972 (Rev.2004)**

The state is duty bound and obliged to provide its citizens a healthy environment to live in, that is free from any sort of contamination and where the air, water, and food meet the standards set for human life to grow and survive properly<sup>23</sup>.

### **The Nigerian Constitution, 1999**

Human dignity must be preserved and upheld, and the sanctity of every human being must be acknowledged<sup>24</sup>

### **Bolivian Constitution**

Every one shall been titled to a good health. The state must ensures that everyone, without any discrimination, exception or prejudice, has access to healthcare<sup>25</sup>. Human freedom and dignity

---

<sup>19</sup> CHAPTER-2- Bill of RightsARTICLE-24: Environment, Constitution of the Republic of South Africa, 1996, available at : <https://www.gov.za/documents/constitution/constitution-republic-south-africa-1996-04-feb-1997>, last visited: 13<sup>th</sup> April

<sup>20</sup> CHAPTER 4 The Bill of Rights PART 2- Rights and Fundamental Freedoms ARTICLE 42: Environment, The Constitution of Kenya, available at :<https://www.kenyalaw.org/kl/index.php?id=398>,last visited: 13<sup>th</sup> April, 2025

<sup>21</sup> CHAPTER 4 The Bill of Rights PART 2- Rights and Fundamental Freedoms ARTICLE 43: Economic and social rights, The Constitution of Kenya, available at: <https://www.kenyalaw.org/kl/index.php?id=398>, last visited: 13<sup>th</sup> April, 2025

<sup>22</sup> CHAPTER 5: Land and Environment PART 2: Environment and natural resources ARTICLE 70: Enforcement of Environmental Rights, The Constitution of Kenya, available at: <https://www.kenyalaw.org/kl/index.php?id=398>, last visited: 13<sup>th</sup> April, 2025

<sup>23</sup>The Constitution of Panama, art. 118.

<sup>24</sup>The Constitution of The Federal Republic Of Nigeria,1999 art. 17(2)(b),

<sup>25</sup> Bolivia (Plurinational State of) 2009, Constitute, art. 18.

are unalienable. The State bears the primary obligation for their protection and respect<sup>26</sup>.

### **UK Public Health Act, 1961**

This Act mandates the availability of bathroom in each and every premise and to assure that the owner or occupant of all premises shall provide a plan to the appropriate local authority before building a house or separate dwelling. And if that plan shows that no bathroom is available in that premises than the authority can reject such plan<sup>27</sup>. This act holds the owner or occupant, of any place like any separate dwelling liable of any cause of action and makes him to pay compensation, if he don't provide sufficient closet accommodation in the respective premises, necessary for continuation of work in that premises<sup>28</sup>. The Act though holds the owner or occupant of any premises bound to maintain the cleanliness and tidiness of that premises but if the owner or occupant of such premises fails to do so by himself than he may seek assistance from any local authority to clean or repair any drains, water closets, sinks, or gullies located inside or linked to that property and may charge the applicant a reasonable fee for discharging such work<sup>29</sup>. The local authority can also provide temporary sanitary loans to premises having linked with cesspools, sewers, or drains for maintenance, improvement, or repair work and such authority can also charge any reasonable costs for providing these services for more than seven days. But Charges cannot be made if there is any defect in public sewers not belonging to such owner or occupier and is maintained by the local authority<sup>30</sup>.

## **V. LEGISLATIVE PERSPECTIVE OF SANITATION FOR LESS DEVELOPED COUNTRIES**

Numerous actions have been performed to get the intended outcome in the sanitation sector because of the recognition of the significance of better sanitation facilities in African nations. Tanzania, Kenya, and Uganda assigned sanitation to their Water Ministries. In many nations, including Burkina Faso, Uganda, Kenya, Tanzania, and Zambia, urban water utilities are in charge of sanitation. Funds for sanitation are collected to improve facilities in Zambia and Burkina Faso. Burkina Faso, Kenya, and Zambia have devised and implemented Faecal Sludge Management. Many African nations that now recognize the need of sanitary facilities for their citizens have adopted a variety of actions. Burkina Faso has a minimal sewer network but is far ahead in terms of sanitary management<sup>31</sup>.

The African Sanitation Policy Guidelines (ASPG) were formulated by African Ministers' Council on Water (AMCOW) in a bid to assist African governments in crafting policies that will go a long way to tackle the lack of access to basic sanitation facilities in sub-Saharan Africa. The ASPG came into existence to streamline the progress towards Sustainable Development Goal 6.2 which aims in reasonable access to adequate and equitable sanitation and hygiene for

---

<sup>26</sup>*Id.*, art. 22.

<sup>27</sup>Public Health Act, 1961, art 23. available at: <https://www.legislation.gov.uk/ukpga/Eliz2/9-10/64>, (last visited April 14, 2025).

<sup>28</sup>*Id.*, art 21.

<sup>29</sup>*Id.*, art. 22; available at: <https://www.legislation.gov.uk/ukpga/Eliz2/9-10/64>, (last visited April 14, 2025).

<sup>30</sup>*Id.* art.23 available at: <https://www.legislation.gov.uk/ukpga/Eliz2/9-10/64>, (last visited April 14, 2025).

<sup>31</sup> Amishi D Patel,, Critical Study of Law and Policy on Clean Water and Sanitation as A Basic Human Right with Special Reference to Gujarat State (2022) (Unpublished PhD Thesis, Babasaheb Bhimrao Ambedkar University).

all, with a focus on women, girls and susceptible groups, and to end open defecation by 2030. The ASPG provides structured guidance that supports the development of feasible, all-embracing and adaptable sanitation policies. It contains intelligence on the procedures for policy formulation and implementation. The ASPG also provides an overview of support systems for countries that require assistance. In Africa, policies, and systems of sanitation are geared towards creating an enabling environment for effective practices. WASH and policy experts developed the guidelines endorsed by African Union member states, grass root organizations, benefactors and other benefactors. It seeks to “enhance coherent, integrated and systematic improvements”<sup>32</sup>.

### **The Uganda’s Public Health Act, 1935**

The Uganda’s Public Health Act 1935 was enacted to consolidate legal provisions related to elevation of public health and sanitary conditions in Uganda. Any dirty, lousy, damp or any other obnoxious substances that is likely to spread infectious diseases or any assemblage of trash or garbage or other filth wastes that aids the growth and spread of parasites; any water tank or containment container or privy or urinal or closet or latrine that is build in a harmful manner that harbours mosquito larvae; most significantly any construction that don’t have adequate availability of clean drinking water and proper latrines shall be deemed to be nuisance under this Act<sup>33</sup>. The Act prohibits any person from creating or persisting any nuisance that is injurious or dangerous to health in any such construction that they own, occupy, or are in charge of<sup>34</sup>. If any such nuisance is created, by a person, which is detrimental to health and if it continues without being treated by him than the local authority must take immediate legal action against him<sup>35</sup>. Further, the local authority is also empowered to take any such action including legal measures if it considers necessary to stop or remedy health hazards created from any unhealthy dwellings<sup>36</sup>. It shall be the paramount obligation of the local authority of assuring it certain that neatness and sanitary conditions of their jurisdiction is kept intact<sup>37</sup>. Moreover, if it is necessary a local authority or medical authority can enter any premises for examining that if any nuisance exists in that premises and for that purpose he may also open up the ground of the premises and test the drains or perform any other work required for the effective examination of the premises<sup>38</sup>. Even after directions of the authority if a person fails to comply with a notice of abating such nuisance or if there is any chance that the nuisance is likely to recur, a complaint can be made to a court competent to take jurisdiction in this behalf and the court may issue a summons for appearing of the person and if the court finds any such nuisance is existing or may recur, the court may impose a fine upon the creator of nuisance and may issue a closing order of that premises and prohibit its use until it is fit<sup>39</sup>.

The Minister shall also have the power to make rules and impose duties on local authorities, owners, and others to ensure that the cleanliness and safety of land, dwellings, buildings,

---

<sup>32</sup> African Sanitation Policy Guidelines (ASPG), September 10, 2020, available at: <https://amcow-online.org/african-sanitation-policy-guidelines-aspg/>, last visited: 18<sup>th</sup> April, 2025

<sup>33</sup> Public Health Act 1935, s. 57

<sup>34</sup> *Id.*, s. 54.

<sup>35</sup> *Id.*, s. 55.

<sup>36</sup> *Id.*, s. 56.

<sup>37</sup> *Id.*, s. 55.

<sup>38</sup> *Id.*, s. 69.

<sup>39</sup> *Id.*, s. 60.

factories, and trade premises is maintained. He can do so by inspecting any land to ensure its proper lighting and ventilation and maintaining cleanliness. The Minister can also inspect local authorities' districts to determine if lands and buildings are injurious to health and prepare necessary records. They can also control houses let-in lodgings, ensuring adequate ventilation, lighting, and sanitary appliances<sup>40</sup>.

The Act also provides criteria to be fulfilled for construction of new buildings which includes submission of a construction plan to the local authority before the construction is initiated. Such plan must show availability of commensurate and suitable latrines and up to standard water supply and public sewer system. Absence of the same shall lead to rejection of the plan<sup>41</sup>. In cases where the building or extension is likely to be used as a factory or workshop, the authority may reject the plan unless and until sufficient and satisfactory separate latrine accommodation for persons of each sex is provided<sup>42</sup>. In case a building is having an insufficient or defective latrine unsuitable for human health, the local authority can obligate the building owner to provide latrines including additional latrines<sup>43</sup>. Non-compliance of the same can amount to fine up to 100 shillings and a daily penalty up to forty shillings for continued offenses<sup>44</sup>.

#### **South Asian Conference on Sanitation (Sacosan):**

The South Asian region has the worst sanitation coverage, with only 37% of the population having improved sanitation in 2000. Despite 230 million additional people gaining access to sanitation, the number of people without access to sanitation services remained at around 875 million. Of the world's total population the South-East Asia region is responsible for an unbalanced rate of global diarrhoea-related deaths, amounting to almost 40.8%.

Under the South Asian Conference on Sanitation (SACOSAN), the head of delegations of various countries including Afghanistan, Cambodia, China, India, Bangladesh, Indonesia, Maldives, Myanmar, Nepal, Pakistan, and Sri Lanka sets a realistic aim to fasten the growth of sanitation and hygiene practices in South Asia by outlining an action plan to achieve the targets of Millennium Development Goals, World Summit Declaration, the Sustainable Development Goals and the Third International Water Forums Commitments<sup>45</sup>. The first SACOSAN conference was held in Dhaka, Bangladesh from 21<sup>st</sup> to 23<sup>rd</sup> October in 2003, in which it was decided that the periodic sanitation condition of each region will be examined based on which knowledge will be exchanged among sanitation professionals and organizations for improving the worsen condition and awareness will be raised of sanitation, health, and hygiene in these South Asian regions. Political commitments of sanitation was also boosted by way of a joint declaration that prioritizes and assists in making and implementing regional policy and strategy for elevating the conditions of sanitation in every region along with the fulfillment of national targets, and bolstering of control and direction to back for better sanitation and hygiene in South Asia<sup>46</sup>.

---

<sup>40</sup>*Id.*, s. 70.

<sup>41</sup>*Id.*, s. 85.

<sup>42</sup>*Ibid.*

<sup>43</sup>*Id.*, s. 88.

<sup>44</sup>*Id.*, s. 89.

<sup>45</sup> Feroze Ahmed, "Sanitation in South Asian Countries", 4(1) Research Gate, 5,6 (2025), available at

<sup>46</sup>*Ibid.*

The commitments adopted by SACOSA Nin multiple seating includes:

- i. Forthedevelopmentofanationsanitationshallbegiventopprioritytoretaindignity, health, and safety of every community member, particularly young children and girls, women, the elderly, and people who are physically disabled.
- ii. Establish a framework and supportive environment that includes rules, plans, and procedures as well as the prerequisites for meeting the needs of everyone, including men and women, children, teenage girls, those with disabilities, and the elderly.
- iii. Create, develop, and implement national and sub-national sanitation and hygiene plans with sufficient funding and SMART (specific, measurable, achievable, realistic, and time-bound) indicators that track and report on processes and results at all levels, including households, workplaces, public institutions, and health facilities.
- iv. Integrate sanitation throughout all sectors, departments, ministries, and establishments, domains (private, home, school, neighborhood, and public), as well as socio-political viewpoints, to ensure that everyone is concerned about sanitation and given priority in their individual initiatives (such as tourism organizations or railroads).
- v. All public buildings, but particularly schools and medical facilities, should have management that reflects and keep an eye on this in design, delivery, standards, and monitoring.
- vi. Encouraging active participation of women and children in all sanitation-related activities.
- vii. Ensure menstrual hygiene and services that are accessible to children and people with disabilities a priority.
- viii. Increase demand and capability for sanitation and hygiene by raising awareness at all levels, including but not restricted to public-private partnerships that support the underprivileged sections of the society.
- ix. Boost community initiatives and local capacity building Governments, youth, communities, and non-governmental organizations to collaborate on sustainable sanitation solutions.
- x. Prioritize research and development of affordable, suitable sanitation products, in conjunction with sanitation marketing and creative approaches to ecologically friendly sanitation systems.
- xi. It also advocates for incorporating social accountability, inclusion, and participation procedures in all community-level sanitation and hygiene programs, especially for the most vulnerable and marginalized regions, from planning to execution.

By activating the SACOSAN Inter-Country Working Group an intergovernmental cooperation in this region is strengthened, which will meet annually and consist of senior level representatives from the member countries to ensure progress in the field of sanitation in all the South Asian countries. Progress on all aspects of sanitation is regularly discussed by reporting at the next South Asian Conference on a common set of indicators created by the Inter-country working group. Stakeholders are working tirelessly to increase the priority, including financial, given to sanitation and to promote equity in our societies by working to better reach the hardcore poor and other needy communities using a combination of user participating approaches for better understanding of their problems.

These commitments were adopted in various conferences including South Asian Conference on Sanitation (SACOSAN) II<sup>47</sup>, SACOSAN III<sup>48</sup>, SACOSAN IV<sup>49</sup> SACOSAN V<sup>50</sup> and SACOSANVI<sup>51</sup>.

## VI. Who Guidelines on Sanitation: Definition, Recommendation and Structural Standard for Quality Hygiene and Waste Management

### Sanitation: As defined by WHO

As defined by World Health Organization (WHO) “sanitation is a fundamental human right which guarantees access to safe, hygienic, and affordable sanitation services<sup>52</sup>”. According to WHO the sanitary model shall be prepared in such a manner that it grants to all equal access to avail equal quality standard of sanitation services by giving special attention to the most marginalized and at-risk individuals and groups. There must be an user participation in decision making process, so that they can keep their stand towards the basic sanitary amenities which they need and mention the grievances they face which hinders their bonafide claim to access sanitary facilities, to get it resolved. The sanitation services shall be both financially and economically sustainable for retaining perpetuality in use i.e. used by today’s generation as well as the coming generation. The States can be held answerable if they fail to provide the services and fail to render their obligation which is charged upon them. Lastly, any planned programs or schemes made for providing sanitary services to people shall be informed to them through the correct media in all the languages which shall be accessible by them free of cost<sup>53</sup>.

The conventional basis of the right of individual to sanitation is defined as follows<sup>54</sup>:

- i. **Availability:** Everyone must have access to a satisfactory quantity and quality of sanitary means.
- ii. **Accessibility:** Everyone living in home, or accessing toilets in other public place such as health and educational facility, public building, or place of employment must have access to sanitation services at their respective premises.
- iii. **Security:** The sanitary facilities must be created in such a manner so that it doesn’t possess threat to physical security of an individual.
- iv. **Quality:** Both the parameters, technicality and hygiene, shall be given consideration to provide safe and secured use of sanitation facilities to all. Having access to water for hand washing and cleaning during crucial moments, especially after use of latrine and also to

<sup>47</sup> Second South Asian Conference on Sanitation (SACOSAN-2), Islamabad Declaration, *available at*: [https://archive.ids.ac.uk/clts/sites/communityledtotalsanitation.org/files/CLTS\\_IslamabadDeclaration.pdf](https://archive.ids.ac.uk/clts/sites/communityledtotalsanitation.org/files/CLTS_IslamabadDeclaration.pdf) (last visited: April 20, 2025).

<sup>48</sup> Third South Asian Conference on Sanitation, The Delhi Declaration (2008), International Environmental Law Research Centre, *available at*: <https://www.ielrc.org/content/e0802.pdf>, (last visited: April 20, 2025). (last visited April 20, 2025).

<sup>49</sup> Fourth South Asian Conference on Sanitation, The Colombo Declaration (2011), International Environmental Law Research Centre, *available at*: <https://www.ielrc.org/content/e1119.pdf>, (last visited: April 20, 2025).

<sup>50</sup> Fifth South Asian Conference on Sanitation, The Kathmandu Declaration (2013), International Environmental Law Research Centre, *available at*: <https://www.ielrc.org/content/e1311.pdf>, (last visited: April 20, 2025).

<sup>51</sup> SACOSAN VI, The Kathmandu Declaration (2016), International Environmental Law Research Centre, *available at*: <https://www.ielrc.org/content/e1606.pdf>, (last visited April 20, 2025).

<sup>52</sup> Guidelines on sanitation and health, *available at*: <https://apps.who.int/iris/bitstream/handle/10665/274939/9789241514705-eng.pdf>, (last visited April 21, 2025).

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*

maintain menstrual hygiene, is crucial for maintaining proper hygiene.

- v. **Inexpensive:** Low cost yet quality sanitation services must be allocated so that people can use it without compromising their capacity to pay for other basic guarantees as well crucial for leading life.
- vi. **Acceptability:** Services must be culturally acceptable, especially sanitary facilities. Gender-specific facilities that are built to guarantee privacy and dignity will frequently be needed for this.

### **WHO Recommendations<sup>55</sup>**

The first piece of advice recommends to make toilets available for all having opportunities with regards to safe emission of waste. It is high time for governments to curb open defecation totally and give everyone access to safe toilets which is used for free excretion. It is essential to tackle the supply and demand for sanitation facilities and services simultaneously for persistence use and toilet uptake. Public places, workplaces, health facilities, educational institutions, and entire communities are to have safe toilets. Programmes must be hold to address behavioral and technological barriers.

The second recommendation is to facilitate worldwide access to safe systems across the whole sanitation service chain. It is important to design sanitation systems giving priority to local conditions to ensure occupational safety of sanitation workers. Making sanitation a subject of local services, broader development interventions and national and international policies shall also be embraced.

The third recommendation is keeping public health a focal point has broader spectrum. To ensure maximum health benefits, the management of domestic animals, the safe end disposal of all kind of sanitary faeces including child faeces etc. should be made available locally, which will in turn will complement water and hygiene measures.

In the fourth piece of recommendation is the role of health sector was highlighted to carry out its core functions including safeguarding the public health, ensuring safe sanitation, providing safe access to health facilities, promoting cleanliness in health services and protecting communities from excreta and untreated wastewater. Initiatives aimed at outbreak prevention and response should be supported by health authorities. Standards for sanitation should be clarified. Sanitation should be part of health policy and thus multi-sectoral programmes and approaches on sanitation should be coordinated.

### **Effective measures to facilitate the provision of safe sanitation services**

The recommendations include defining government-led sanitation policies, ensuring health risk management in legislation, sustaining health sector engagement, conducting local health-based risk assessments, and enabling marketing of sanitation services to improve system performance and business models.

### **Systems of safe sanitation<sup>56</sup>**

---

<sup>55</sup>*Ibid.*

<sup>56</sup>*Ibid.*

To guarantee safety at every stage of the sanitation service chain, sanitation systems should take into account the minimal standards.

*TOILET: Design and construction*

Toilets should be constructed in a manner so that it is compatible and persistent with current and predicted future. There must be adequate water availability for flushing, cleaning and hand hygiene available inside the toilet. The presence of soap and water near sanitary facilities should encourage and support in depth hand cleansing with soap following defecation and any possible contact with faeces or for other purpose. Hand washing stations ought to be required in public spaces (such markets, restaurants, health care facilities, schools, etc.) and incorporated into regular inspection and monitoring programs. Materials like concrete, fiber glass, porcelain, stainless steel, durable plastic or smooth wood can be used for constructing durable slabs which can be cleaned easily. The facility should be constructed in a manner worthy to maintain privacy and safety for all users and it should focus on the need of all the sections of society considering parameters like gender, age, and physical mobility i.e, physical disability, sickness, visual impairment etc., including children and older individuals. The sewage system must be properly sealed fitted with a water seal and removable, closely fitted lid to prevent rodents or insects entering the containment technology and inside the toilet. In order to control odour trapdoor can be fitted in toilets. The toilet and every surface in the area that it is in, such as the toilet, cubicle, washroom or rest room, should be maintained tidy and devoid of waste. For keeping it clean proper cleansing methods shall be equipped like using chemical disinfectants, lime cleaning, ashes, soil or sawdust so that patrons can cover their waste after defecating, especially while using dry toilets to prevent odour and keep flies away. Everyone performing cleaning should follow safe working procedures, and locally accessible cleaning supplies should be utilized and stored securely. When using a shared or public loo, a scheduled cleaning should be followed on a regular basis, and supplies of cleaning agents and personal protective equipment (PPE) should be available for maintaining safety of the cleaning staffs. The toilets shall have compatible containment, conveyance and treatment technologies (on-site or off-site) for safely managing excreta generated through toilet use.

*Additional characteristics:*

- i. **Availability:** In homes, healthcare institutions, schools, workplaces, and public areas, there should be enough amenities that keep wait times to a manageable amount that doesn't deter use or create difficulty.
- ii. **Accessibility:** All intended users should be able to access the facility at all times, taking into account their age, gender, and any limitations. Users should have corresponding gender designated toilets in areas where toilets are segregated by sex.
- iii. **Acceptability:** The superstructure should give the user privacy and security, for instance by having a door that can be locked from the inside and lighting. This is especially crucial in public or shared restrooms, such as those found in workplaces, schools, or health care facilities. Facilities for managing menstruation hygiene safely should be available, such as a covered receptacle for product disposal. In public or shared restrooms, the container should

be proportioned for anticipated usage and provide a safe and convenient method for emptying and disposing of waste. Flush or disposal of menstrual hygiene items in the toilet pan apart from throwing the min dustbins is not appropriate.

### **Shared or public toilets**

A shared public toilet shall be build up at a location which is safe and have easily access routes. It should contain separate cubicles for men and women, or gender- neutral cubicles with hand washing and menstrual hygiene maintenance facilities. To make sure utmost safety and security there must be doors that can be locked from inside with adequate availability of lights. Appropriate adjustments for all users, such as installation of handrails and an availability ramp for providing assistance to the person with disabilities. A structure of management shall be offered in all the places which run a shared or public toilet.

If a toilet is poorly built or composed of a non-durable material that makes it difficult to clean the slab (or pedestal) than it shall be deemed to be a defective or inappropriate toilet. If the toilets and all other facilities available inside the toilet is not maintained properly and if waste products including excreta are left on the toilet surfaces and it is visible by user than such toilet shall be termed as inappropriate. Toilets that don't have hand washing stations, cleansing supplies, or facilities for proper disposal of menstrual hygiene items including pads shall also be considered as a defective toilet. Toilets that don't provide enough privacy or security, or that are locked for extended periods of time making it of no use for users shall be deemed as unfit for human use.

### **CONTAINMENT – STORAGE / TREATMENT**

The WHO mandated at the tanks or pits containing solid wastes shall be discharged to a soak pit or leach field and not in open drains or water bodies causing nuisance for others. Technology should be used for on-site containment and treatment of effluents should for ensuring safe end disposal and safe operating procedures is required for the same. Proper treatment of groundwater shall be ensured to keep containments and water sources separate for making groundwater usable as safe water.

### **Conveyance**

Motorised emptying and transportation ought to be given precedence over manual emptying and transportation whenever feasible. All the employees shall be educated about the standard operating procedures (SOPs) and the dangers of handling waste water and fecal sludge. All employees shall wear personal protection equipment (PPE), such as gloves, masks, caps, full dungarees and enclosed waterproof boots in times of needs of manual sewer cleaning or emptying.

### **Treatment**

Both the liquid and solid components should be segregated and treated before being disposal, irrespective of its source. The wastewater should be treated using sewer-based technologies and fecal sludge should be treated on-site. Keeping in mind the safe end disposal purpose the design

and operation of the treatment facility should be fixed. A risk assessment and management strategy should be adopted for identifying, managing, and tracking risk across the system.

### **Disposal/End Use**

Employees who handle fecal sludge or effluent should wear personal protection equipment and get training on standard operating procedures and the dangers involved. It is best to employ a multi-barrier strategy, which entails using multiple control measures to protect against any disease hazard.

## **VII. Conclusion**

Urination and defecation is a natural process that we can't stop but the availability of clean and properly maintained toilet is the right of every person living in this world. Because in absence of proper toilet for defecation and urination will not come to an end and even if the toilets aren't clean than if it is available than there is no advantage of such availability, because it poses severe threat to public health at large. Therefore, it is the responsibility of the appropriate authorities like UN General Assembly, UNESCO, WHO and others to set up guidelines and extend the hand of co-operation by way of funding, technical assistance and any other possible ways, to ensure that not only the developed nation but also the developing and less developed nation can provide basic sanitary amenities at toilet to its citizen to elevate their health, privacy, dignity, safety and social security as well as to provide a clean environment to its citizens.

India being a signatory to UN general Assembly resolution and SACOSAN, should take initiatives to implement the recommendations of the same. Moreover, to protect public sanitary health at large it is necessary to implement the WHO guidelines in construction of toilets. And it can only be done by enacting legislative frameworks which comprehensively deals with sanitation including but not only restricted to the developmental policies which is eventually not enforceable before the Court of Law and thus will not hold the duty bearers accountable for negligence in their duty. Therefore, a comprehensive legislative framework is needed for stringent implementation of sanitary laws that focuses on each gender and the vulnerable group of the society. And in order to enact law it can also take help from the legislative frameworks of many nations like UK, Tanzania, Uganda, and others.