

SANITATION AS BASICS TO THE RIGHT TO LIFE

Written by *Dheerendra Kumar Baisla*

LLM Student, Galgotias University (School of Law)

ABSTRACT

“Right to Life a right which is considered as inherent and most superior right among all the Human Right, it is considered as Genesis and in its domain every other right are considered to be Species. And one of the species of it Right to Sanitation which is connected right with the Right to privacy, Right to education, Right to work, Right to clean environment, as well as Right to dignity on these several initiative were taken at International as well as National level even the Judicial approach has also raised concerned about it but among all these the position of India is quite different wherein people have lack of awareness regarding the Effects of sanitation in terms of education, health, development of there child mentally, physically as well as socially. In India the progress for this start in 1986 till now the work to clean India campaign are not effective in it nature as per the report of Millennium Development Goals 2015, India failed to achieve the task of sanitation. In this regards the Main Issue is Awareness Program are not going into directions which they ought to be go firstly, and Secondly, the Policy at urban level is not required where as the Policy at upper-cum district level also not required but the Policy at purely rural level is required and the current functioning is at upper-cum district level.”

KEYWORDS: *Right to Life, Sanitation, Effects, Awareness, Policy.*

INTRODUCTION:

Right to adequate standard of living a clarified rights under the International and National legislation. Several initiatives were taken by the respective authorities on the basis of the serious concerned raised by the Activist regarding Adequate sanitation as it obstruct right to life and health, it hampers right to education, it threats right to dignity, and as well as it also kills etc... these are some of the issues which raised serious concerns about Adequate sanitations several initiatives were taken at international and national level.

INITIATIVE AT INTERNATIONAL LEVEL

1. The International Convention on Economic, Social, and Cultural Rights ¹	Article-11 Right to Adequate Standard of Living includes water and Sanitation.
2. The International Convention on the Elimination of All forms of Discrimination Against women ²	Obliges governments of respective states to ensure that rural women have access to sanitation. Reason: It deprives right to education, Right to health, Right to work and others.

¹ International Covenant on Economic, Social, and Cultural Rights. 16 December 1966, United Nation, General Assembly by its resolution 2200 A (XXI).

² Convention on the Elimination of All forms of Discrimination Against Women. 18 December 1979, United Nation, General Assembly resolution 34/180.

<p>3. The Convention on the Rights of the Child³</p>	<p>Article -27 specifically mentioned that every child has the right to a standard of living for his development. It is parents and state who have collective duty to ensure. Such Adequate standard also include proper access to sanitation.</p>
<p>4. Geneva Convention, 1949⁴</p>	<p>Prisoners of war and civilians in situation of armed conflict have access to sanitation.</p>

INITIATIVE AT NATIONAL LEVEL

<p>1. South Africa</p>	<p>1. Constitution of the Republic of South Africa 1996</p> <ul style="list-style-type: none"> • Section 24(a) Right to Environment • Section 26(1) Right to Adequate housing • Section 27(1)(b) Right to water • Section 10 Right to Dignity • Section 14 Right to Privacy <p>Under these south Africa has directly and indirectly accepted Right to Adequate Facilities of Sanitation as Human Rights in</p>
------------------------	---

³ Convention on the Rights of the Child, 20 November 1989, United Nation, General Assembly resolution 44/25 of 20.

⁴ Geneva Convention (III), 20 August 1949.

	Fundamental. 2.Other legislations
4. Kenya	<ul style="list-style-type: none"> ⁵Article-66 “Every Person has the Right to a reasonable standard of Sanitation.”
5. Uruguay	<ol style="list-style-type: none"> The Constitution of Republic Uruguay <ul style="list-style-type: none"> Article 47 Recognize water and sanitation as human rights. This was approved and officially published in 2009.
6. Bolivia	<ul style="list-style-type: none"> ⁶Right to water and sanitation as a constitutional right under newly draft constitution.

These are Initiative which are taken by some of the countries with respect to Sanitation as there Constitutional Right.

As far as Human Rights is Concerned Sanitation is⁷:-

- **Safe: Sanitation** must effectively prevent human, animal and insect contact with excreta. Toilets (including latrines) must provide privacy and a safe and dignified environment for all. Water must be available for good personal hygiene, and facilities for safe wastewater disposal must be in place.
- **Physically accessible:** Toilets must be within, or in the immediate vicinity of, each household, educational institution or workplace and available for use at all times of the day or night, along with associated services such as removal of wastewater and sewerage or latrine exhaustion. Appropriate facilities for use by

⁵ The Constitution of Kenya, 2010.

⁶ The Constitution of Bolivia as provided under Article 107.

⁷ United Nations Sub-Commission on the Promotion and Protection of Human Rights, Res. 2006/10, Promotion of the realization of the right to drinking water and sanitation, 24 August 2006, UN Doc.

children, disabled and elderly persons must also be available. In order to prevent disease, toilets must be available for and used by all persons in a particular locality.

- **Affordable:** Access to sanitation, including maintenance, must be affordable, without reducing the individuals or household's capacity to acquire other essential goods and services, such as food, education and health.
- **Culturally sensitive:** The construction and design of latrines should be culturally appropriate. Male and female public facilities, in particular in schools, need to be separate so as to ensure privacy, dignity and safety.

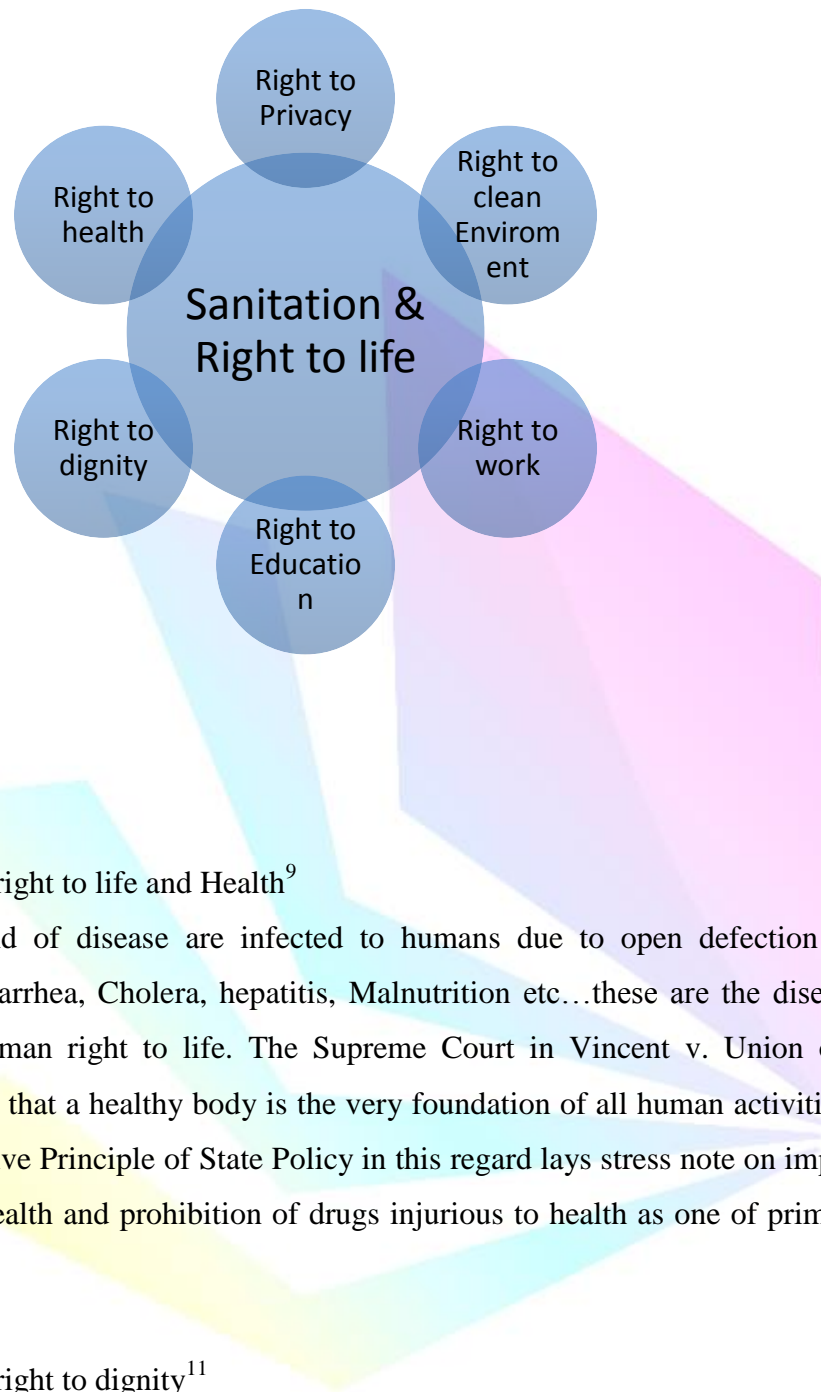
POSITION IN INDIA:

In India the position regarding sanitation has not been recognized in the Indian constitution till 2000, it was only after the ⁸Supreme Court judicial Pronouncement which led sanitation under Article 21 of the constitution.

The condition regarding sanitation facilities are worst in rural areas as compare to the urban areas. The question which specifically arose is that how do Inadequate Sanitation hampered the growth of human rights. If we consider sanitation as right to life than there are number of right violated which are fundamental and within the scope of Right to Life.

Bunch of Fundamental Rights which are Human Rights:-

⁸ A.P. Pollution Control Board Ii v. Prof. M. V. Nayudu (Retd.) And Ors on 1 December, 2000.



1. It Obstruct right to life and Health⁹

Several kind of disease are infected to humans due to open defecation these are typhoid, Diarrhea, Cholera, hepatitis, Malnutrition etc...these are the disease which obstruct human right to life. The Supreme Court in Vincent v. Union of India¹⁰, emphasized that a healthy body is the very foundation of all human activities. Article 47, a directive Principle of State Policy in this regard lays stress note on improvement of public health and prohibition of drugs injurious to health as one of primary duties of the state.

2. It Obstruct right to dignity¹¹

Sick, Elderly, Women and Even a Girl Child faces a loss of dignity when a sanitation facilities are not available in the near vicinity. in Bandhua Mukti Morcha v. Union of

⁹ State of Punjab v. Mohinder Singh Chawla (1997) 2 SCC 83.

¹⁰ 1987 AIR 990 : 1987 SCR (2) 468.

¹¹ Maneka Gandhi v. Union of India 1978 AIR 597, 1978 SCR (2) 621.

India¹². Characterizing Art. 21 as the heart of fundamental rights, the Court gave it an expanded interpretation. Bhagwati J. observed: This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief.

3. It hampers right to Education

If the sanitation facilities are not available in schools and colleges, ultimately the effect of it is that the parents are deterring to send their girl child to school as it is one of the leading factors to right to privacy. This has caused attendance of girl child in schools as compared to the male child. Currently, in India 48% of children are under 5 years of age and sanitation may be one of the factors for them which hampers their right to education.

4. Right to Privacy

The Supreme Court in case of *PUCL v. Union of India*¹³, the Supreme Court observed that: We have, therefore, no hesitation in holding that right to privacy is a part of the right to “life” and “personal liberty” enshrined under Article 21 of the Constitution. Once the facts in a given case constitute a right to privacy; Article 21 is attracted. The said right cannot be curtailed “except according to procedure established by law”.

5. Right to Clean Environment.

The “Right to Life” under Article 21 means a life of dignity to live in a proper environment free from the dangers of diseases and infection. Maintenance of health,

¹² 1984 AIR 802, 1984 SCR (2) 67.

¹³ AIR 1997 SC 568.

preservation of the sanitation and environment have been held to fall within the purview of Article 21. In *Milk Men Colony Vikas Samiti v. State Of Rajasthan*¹⁴, the Supreme Court held that the “right to life” means clean surrounding which lead to healthy body and mind. It includes right to freedom from stray cattle and animals in urban areas.

In India the progress started from 1986 wherein the central government launched Central Rural Sanitation Program (CRSP) with the objective¹⁵ of improving the quality of rural life and to provide privacy and dignity to women. The large number of subsidy to build sanitary latrines for below poverty line households with the efficient technical advisory agencies such as UNDP, WHO, and UNICEF working for the success of CRSP, but later on when the working of CRSP reviewed it is reveal that the constructed toilets has not been used they are using such toilet as there store room, the reason behind that the primary need of people is of water and drainage and not toilets, no awareness program of impact of open defecation were taken into consideration. Due to this only the new platform set the stage for Total Sanitation Campaign (TSC) in 1999. Keeping in view of above failing reasons this campaign emphasizes more on Information, Education, Awareness Activities.

The main objectives of program¹⁶:-

- To improve the quality life of rural.
- Accelerate sanitation coverage in rural areas.
- Does awareness and health education.
- To cover schools and other areas for sanitation facilities.
- To Convert dry latrines to pour flush latrines.

¹⁴ (2007) 2 SCC 413.

¹⁵ Guidelines on the Central Rural Sanitation Program under the Department of Drinking Water Supply Ministry of Rural Development Government of India January 2004.

¹⁶ Total Sanitation Program Launched in 1999 main objectives are Available at www.nrega.nic.in/netnrega/forum/8-TSC.pdf.

These are the some issues which are covered by the TSC, although there is no doubt regarding the working of TSC as rampant increase in providing sanitation is done. But still there lot more to do upon that as we already know India is the member of the United Nation and in 2000 under the head of Economic and social passed eight Millennium development goals under which Goal-7 Ensure Environmental Sustainability specifically deal with the Water and Sanitation development. Indian is also signatory to above goals and it is agree by the India to achieved the above mentioned goal by 2015. But as per the report¹⁷ of the MDG India is failed for improving access to adequate sanitation to eliminate open defecation. It was due to this reason only the Government of India had Launched Swachh Bharat Abhiyan Campaign which intend to achieve a 'Clean India' by 2019.

18

SNO	STATE NAME	STATE'S PROGRESS			DISTRICT PROGRESS		
		IHHL*	ST*	AT*	IHHL*	ST*	AT*
1	ANDHRA PRADESH	76%	91%	113%	71%	93%	67%
2	BIHAR	30%	76%	41%	24%	76%	21%
3	CHHATTISGARH	57%	97%	118%	58%	92%	96%
4	JHARKHAND	46%	90%	51%	39%	91%	83%
5	MADHYA PRADESH	75%	77%	99%	68%	92%	91%
6	MAHARASHTRA	68%	100%	98%	88%	100%	100%
7	ORISSA	57%	98%	188%	43%	94%	100%

¹⁷ India and the MDGs: Towards a Sustainable Future for All 2015 Report Available at <http://www.unescap.org>.

¹⁸ <http://www.nrega.nic.in/netnrega/forum/8-TSC.pdf>.

8	UTTAR PRADESH	78%	94%	96%	86%	94%	72%
---	---------------	-----	-----	-----	-----	-----	-----

Physical Progress of State vs. Districts.

*IHHL-Individual Household Latrine, ST-School Toilet, AT-Anganwadi Toilet

As per the Survey conducted by the Ministry in 2010 the report of each state as above table shows prepared under which if we see Individual house hold latrine the progress is slower than any other progress in District Progress, but the psychology of rural father depend upon the circumstances around him and if he does not have latrine facilities than how he forward to his child specially girl child to the school, so there is need to improve progress at district line which is base line than at urban line.

CONCLUSION AND SUGGESTION WITH SPECIAL REFERENCE TO GOVERNMENT DUTY TO ENSURE:

Overall, it is the initiative at international level primarily, which has raised serious concern about sanitation and how it hampers the growth of especially a Rural Community in terms of physically, mentally, socially, as well as legally they are lacking behind the development and it's the mandate of collective rights which gives us right to development, but still as far as the conditions of India is concerned there is lot more to do in it and the main problem is Lack of Awareness regarding the effects of sanitation as well as there right of health and this cannot be done until and unless the role of the NGO's are deployed in the awareness program and it is the very member or the head of the particular community who has to participate with them by organizing the Samiti meetings.

Governments have an obligation to respect, protect and fulfill the right, using the maximum of available resources to progressively realize the right.

- **Respect:** Governments must not prevent people from accessing sanitation, for example, by arbitrarily interfering with customary or traditional arrangements for sanitation, without providing acceptable alternatives.
- **Protect:** Governments are obliged to ensure that private individuals or groups do not prevent anyone from accessing safe sanitation, for example by charging excessively for use of toilets.
- **Fulfill:** Governments must facilitate access by ensuring that appropriate standards and regulations are in place to assist individuals in constructing and maintaining toilets. Governments must promote the right through hygiene education and promotion. Where individuals or groups are unable to provide sanitation services for themselves, governments must provide the necessary assistance, including information, training and access to land.

Government Duty To Ensure:-

- Reviewing laws, policies, strategies and financing to ensure that sanitation is given sufficient priority, is treated as a right and that regulation is appropriate.
- Ensuring that marginalized and vulnerable groups have access to sanitation services.
- Ensuring that the most appropriate technical options for collection, transport, treatment, disposal or re-use of excreta are utilized.
- Making land available for the essential elements of ensuring sanitation, such as public sanitation blocks or local treatment plants.
- Ensuring, as a matter of urgency, that all people are reached by hygiene education that is customized to their needs.