

## Water and Sanitation as Rights



**Editorial**

Sathee

### Dear Friends,

Currently we are witnessing an increased intensity in the discourse on water and sanitation as rights. Not without reason, given the centrality of water and sanitation in leading a healthy life, and with dignity.

Recognition of this centrality is not new. Over the years, there have been 22 international covenants – to which India is a signatory – which mention water and sanitation explicitly. Covenants are international guidelines that enable the creation of mass opinion at global level and exert pressure on signatory countries to recognise their obligations towards their citizens. However, being guidelines, covenants are not legally enforceable and in absence of pressure within the signatory countries to abide by these, often hold little weight.

There is no comprehensive water law in India, but aspects do exist in other laws. These include forest law, environment protection laws and ownership laws which take into account nature of water body (groundwater for example) and its usage (irrigation for example). Under the Constitution of India, water is a state subject, mandating the State Governments to make laws on the distribution, regulation and use of water. It is in matters concerning inter-state water issues that the Government of India can intervene. At the local level, under the provisions of the 73rd and 74th Constitutional Amendment the panchayats and urban local bodies have the mandate of water at the local level. However, often these bodies have little control on developments that impact the availability of water in their villages, such as control

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over catchments, multi-village water supply schemes and the provision of water from their sources to industries by the state government. The provision of safe and adequate water and sanitation continues to elude citizens even after several decades of government programmes for water supply and sanitation. Despite constitutional guarantees and specific programmes, socially excluded communities – such as dalits and tribals – continue to be denied services and entitlements. The Planning Commission of India has acknowledged that these programmes have not yielded desired benefits.

Under the Constitution, the right to water in India has been inferred under Article 21 which is right to life. Through various judgments, the Supreme Court and various High Courts have interpreted the right to life to include the right to water and safe sanitation. This makes the right a derived right rather than a direct right. Also, case laws based on judicial pronouncements can only direct the government: Enforcement or implementation has to be done by the executing agencies and ensuring this can be another intensive exercise.

One of the instruments used for accessing rights is the Right to Information (RTI) which gives citizens access to records of the Central and State Governments. RTI requires public authorities to computerize their records for wide dissemination and to provide information to the citizens on formal application, within a stipulated time period. RTI is fast becoming a useful tool in the hands of the citizens for accessing information of the implementation of water and sanitation programmes by the service provider. Civil society organisations, communities and individuals have used RTI to inform and empower themselves for seeking their right to water and sanitation services. However, our research indicates that there are examples of bribery, threat and delay when the Act is used. Also, action taken as a consequence of the application is sometimes not sustained and the applicant is back to square one.

Recent policy documents, government declarations and political announcements do speak the language of rights. A

commitment to sanitation as a human right was made in the Delhi Declaration adopted as part of the inter-governmental South Asian Conference on Sanitation (SACOSAN) - III in November 2008. The newly developed National Rural Water Supply Programme guidelines operational since April 2009 also recognise provision of safe water as a human right, which is as yet not the case of rural and urban sanitation programmes. However, policies and guidelines are statements of intent and are not justiciable nor enforceable in a court of law.

Prime Minister Manmohan Singh in his address to the XV Lok Sabha called for a paradigm shift for making the development process more inclusive. He stressed on creating entitlements backed by legal guarantee to provide basic amenities and opportunities for livelihood to vulnerable sections. These developments provide hope, but in case of water and sanitation, first a law will have to be enacted to secure these rights, which will need to be backed by appropriate policies, rules and regulations and most importantly, budgets. It will also mean strengthening government institutions and setting up accountability mechanisms, and making the community aware of their rights.

The current issue of WaterDrops explores various aspects related to water and sanitation as rights. It outlines major international conventions and covenants that document the right to water and sanitation. It summarises various judicial pronouncements in the country that have strengthened the right of citizens to water, environmental sanitation and hygienic conditions. It documents initiatives of various campaigns, movements and groups. Examples of civil society movements in bringing water and sanitation upfront on the political agenda during the recently concluded Lok Sabha elections are also highlighted.

We look forward to hearing and learning from you.

**Cordially**  
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Imagine the plight of close to 19.5 million rural people who do not have access to safe drinking water. And what is more, if you add the number of people (in rural areas) not having access to water, having partial access to water and people whose water sources are contaminated, 77 million Indians face drinking water problems either in quantity or quality. In case of sanitation, two out of every three Indian defecates in the open, more due to constraint than behaviour (See Table 1). The health burden of inadequate sanitation is so high that the country spends more on health than on direct sanitation provision. And 1.5 million children die of diarrhoea every year.

**Table 1: Coverage status of drinking water and sanitation**

Drinking water coverage	Per cent population covered
Rural	66.4
Urban	91.0
Sanitation coverage	
Rural	47.0
Urban	83.2

By virtue of physical existence and according to codes of civilized and dignified living; water and sanitation are basic rights. Though Indian Constitution and its numerous interpretations by the highest judicial institutions recognise water and sanitation as rights, as yet there is no explicit provision for this.

Lack of access to drinking water and sanitation is a passive and pervasive human rights violation in the country. While it infringes on the right to live with dignity, it threatens existence as well.

Lack of safe drinking water and sanitation triggers a chain reaction that perpetuates poverty. Lack of water means poverty and poverty means lack of capacity to access basic necessities of life and live with dignity. This includes sanitation. At the end, the poor divert their meager income to get respite from diseases, leaving them poorer. Though less assertive about

their rights, there are however examples where the poor have struggled hard for accessing these.

### Constitutional interpretations

The Constitution of India guarantees wholesome life. Article 21 ensures right to life for Indian citizens. Over a period of time, the Supreme Court of India and various state High Courts have defined the right to life as enshrined in the Constitution. For example, in a sub-judice case in the Supreme Court, the court has given notice to the Ministry of Health on quality of water sources in villages. In this case the litigant has asked the court to enforce quality water in sources for drinking water and the argument is that non-safe water is a violation of right to life. Besides, India has been a signatory to many international conventions that treat water and sanitation as a right (See box: *International commitments*).

A review of key judicial pronouncements indicates that the right to life in the Constitution means rights to water and sanitation as well. Courts have not only termed right to water as a fundamental right but also have defined water as a 'social asset'.

Ruchi Pant, a policy analyst, has argued in her assessment of right to water in India that other articles of fundamental rights also support protecting the right to water as interpreted using the Article 21. "Article 14 has been interpreted by the judiciary as guaranteeing inter-generational equity i.e. the right of each generation of human beings to benefit from natural and cultural inheritance from past generations. This therefore requires conserving the biological diversity and the sustainable use of other renewable and non-renewable natural resources including water) for future generations." Besides, Article 15 (2) of the Constitution makes equitable access to water sources a right. It says that nobody should be debarred from use of wells, tanks and bathing provisions.



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## International commitments

Key international agreements/conventions treat water and sanitation as a human right

- MarDelPlata Declaration (1977) states that all people have right to drinking water in quality and quantity, irrespective of the level of economic development of the native country and stage of development.
- Convention on Elimination of all Forms of Discrimination against Women [1979, Article 14 2(h)] explicitly mentions about provision of water and sanitation to women.
- Convention on Rights of Child [1989, Article 24 2(c)] mentions right to safe drinking water of a child from a non-polluted source.
- Agenda 21, UN Conference on Environment and Development (1992) calls for provision of safe drinking water and environmental sanitation for poverty alleviation.
- Programme of Action of the International Conference on Population and Development (Cairo 1994) mentions right to water and sanitation in realizing complete human potential and sustainable development.
- United Nations General Comment 15 (2002), the right to water (articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights) states the Human Right to Water “entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses”.

## Enforcing rights

However, as experiences have shown that without the right being explicitly mentioned in the Constitution, the state doesn't have enforceable liability for access to safe drinking water and sanitation. If water is made a right, it will increase the state obligation to fulfill this right and will also empower the common people to demand this basic need from the state. A human right dimension to water could impose three main obligations on the state:

1. *To respect*: For this, the states need to refrain from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with traditional arrangements for water allocation and unlawfully polluting water and limiting access to, or destroying, water services and infrastructure.
2. *To protect*: For this, it will need to adopt necessary and effective legislative and other measures to restrain third parties from denying access to adequate water and from polluting and inequitably extracting from water resources; prevent third parties from compromising equal, affordable and physical access to sufficient and safe water, where water services are operated or controlled by third parties.
3. *To fulfill*: If water were to be recognised as a human right, states could meet this obligation by way of legislative implementation, adaptation of a national water strategy and plan of action and adequate budgets to realize this right while ensuring that water is affordable and available for everyone.

## Left without rights

While there is increased focus and funding for water and sanitation, there is less understanding of the complex sector.

- **Drinking water coverage in rural India has shrunk to 66.4 % according to latest government data.** This is an unprecedented slip back in drinking water coverage as in 2005 it was 95%. Around 19.5 million rural people don't have access to safe drinking water. In urban areas



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- around 11% of households do not have access to any water for some parts of a year.
- **Going by the government data of habitations not covered with drinking water, partially covered and having quality problems in water sources, 77 million people don't have access to water both in quality or quantity.**
  - The World Water Development Report, 2003 indicates that in terms of availability of water, India is at the 133rd position among 180 countries. With regard to water quality, it is 120th among 122 countries.
  - While sanitation coverage is improving, the target of total sanitation by 2012 is daunting: Still 665 million people continue to practice open defecation. One in every six urban household defecates in the open because they don't have access to any latrine. In sanitation sector slip back and non-usage of toilets have the potential to derail progress.

### Human cost

The right violation has a tragic human cost in terms of morbidity and mortality. Absence of good quality water tells on child and maternal health particularly, affecting the physical and mental well being of future generations as well.

“Realising the right to water, like all economic, social, and cultural rights, requires greater specificity in the context of the rights themselves, along with profound changes in the structures and budget priorities of governments as well as broader mobilization to claim them,” observed Priya Sangameswaran, a policy analyst with Bengaluru-based Centre for Interdisciplinary Studies in Environment and Development. India's Scheduled Tribes and Castes (ST/SCs) population, the largest chunk of the country's poor, are an example of social exclusion resulting out of poverty and marginalization.

In case of drinking water, the Accelerated Rural Water Supply Programme has mandated that each state spends a minimum of 25% for SCs and another

10% for STs. Analysis of official data by WaterAid shows that in the past few years, more than 40% of the earmarked expenditure for SCs have not been made despite the fact that coverage statistics of this population is low.

Indian laws under Article 17 have abolished untouchability. Despite this, the community of manual scavengers continues to face social discrimination. It is illegal under Indian laws to do manual scavenging or to engage any person in such practice. But there are some 3.42 lakh manual scavengers in India.

### Understanding water and sanitation rights

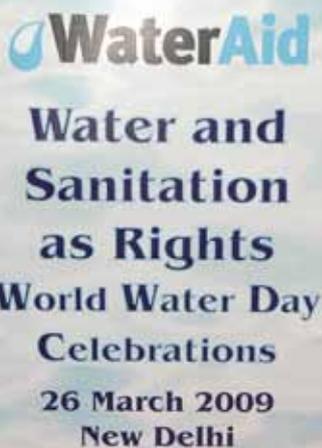
Every year, World Water Day is a reminder: How many more would die of avoidable diseases before we get water and sanitation as right? During the South Asian Conference on Sanitation – III (SACOSAN-III), held in November 2008 in Delhi, Prime Minister Manmohan Singh declared water and sanitation as a human right. It came as a solace for in the two years between this and earlier SACOSAN, one million children died of water born diseases in South Asia.

From April 1, 2009 the Department of Drinking Water Supply, Ministry of Rural Development, adopted new guidelines for its rural drinking water supply programmes which treat water as a right. This is another reason to be hopeful.

There is a need to understand how the existing laws and regulations can enforce the right to water and sanitation. Right to water has many dimensions. Issues of entitlement, priority of uses within the right, conflict avoidance, the institutional mechanism at the appropriate level to enforce the right, accountability and transparency, accessibility and affordability and the responsibility of source sustainability are some of these.

### Rights also mean responsibilities

Article 21 guarantees right to water but there are few options available to ensure the right. Civil society organizations have



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dual responsibilities: to raise the awareness on the centrality of water right within the fundamental right to life and to dwell with ways and means that ensure the right.

With rights come responsibilities. The Constitution of India has made provisions for fundamental duties from citizens as well as the state. Article 51-A classifies duties towards self, duties towards the environment and towards the nation. Article 51 A (g) states that 'it shall be the fundamental duty of every citizen to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.' So what we need to adopt and promote is a right combination of access to rights and adherence to responsibilities.

As courts have interpreted water as a social asset, it is the duty of communities to protect and adopt judicious uses of water. At the community level, how do we honour our responsibilities to water and sanitation sector? Being a social and common resource, it needs responsible responses from various communities. There are examples that show that village communities have adopted water budgeting for efficient uses. They are an example of community responsibility towards enforcing rights over water.

Here is where, with respect to drinking water and sanitation, civil societies can play an important role. This includes (a) Informing, encouraging and empowering communities about their rights so that these can be accessed (b) Empowering them to protect water sources so that these are sustained in quality and quantity (c) Convincing them so that they change their behavior towards a cleaner environment and judicious use of water (d) Engaging with the governments for sharing information and experiences (e) Adopting self regulatory mechanisms to control water quality and use (f) Engage in public domain to debate the need for a direct right to water and sanitation. (g) Working towards service provider accountability.

### **Our Journey**

WaterAid India (WAI) organised a one day

workshop on the occasion of World Water Day, 2009. The theme of the workshop was 'Water and Sanitation as Rights'. The programme was attended by more than 150 delegates from across India including members from the legal community, NGO representatives, WAI staff and partners, and media professionals. The speakers included people from grass-root organisations, youth campaigns, advocacy organisations, civil society representatives and researchers. There were testimonials from individuals and community groups sharing their experiences in claiming their watsan entitlements, by the strategic use of various legal and other means to pressurise the state that are available in a democracy like India.

The main points that emerged through the questions and discussions that followed the sharing by various speakers are enumerated below:

#### *Rights to water and sanitation*

- It is essential to keep the principles of access, equity and inclusion at the centre of all our work when we talk about the right to water and sanitation. Given the prevalent inequity, governance needs to be looked at from the lens of social justice.
- There is need to focus on water distribution priorities: are we really focusing on minimum needs of all?
- Individual rights are sometimes conflicting. The right of one sometimes violates the rights of others. So what does Right mean? Shouldn't individual rights always be seen within the context of the greater common good? On the other hand isn't it dangerous to sacrifice individual rights for the common good?
- A rights based approach is one in which citizens are not just beneficiaries but active participants in the process of development.
- What civil society organisations can do is to ensure the process takes place. They cannot do the government's job. The role of the state is to respect, protect and fulfill rights, and so the state is responsible for service



Binu Nair

- delivery.
- There are constitutional rights but there are administrative lacunae that make it difficult for ordinary citizens to claim these rights. As a result, inequality in access to rights is widespread. This is why we need a Rights Based Approach.
- There is a need for integrating/ synergizing between a Needs Based Approach with the Rights Based Approach.
- In terms of watsan, there is a need to look at what happens when the State starts withdrawing from essential services, compounded by the perception that watsan is not perceived as an essential service. Does watsan need to be classified as an essential service?
- Rights are of 4 types – Natural rights, Customary rights, Legal & constitutional rights and Wrested rights. So when one talks of RBA we have to work on all the above rights.
- There was debate over whether we need a separate Act to make water a fundamental right. There were just a few who were of the opinion that article 21 was enough. Others said that the government is giving lip services to rights so we need to open up multiple fronts as a strategy.
- We need to explore rights beyond established fundamental rights, and so instruments like the National Rural Employment Guarantee Act, and the Right to Information Act need to be used.
- The geological storage capacity for water is being destroyed due to mining
- There are many difficulties in accessing justice due to administrative and legal procedures.
- Technology is an issue. The question arises: If a technology causes pollution and there appears to be no easy remedy for that pollution, why is the technology promoted?
- The slow performance of the Executive has resulted in legal interventions. There is a need for use of judgements beyond specific cases i.e. wider interpretation of judgements in different areas.
- It is important to use different tools to voice one's concerns. (e.g. Rallies, RTI applications, media campaigns etc). The involvement of youth is becoming important to highlight the issues to the masses. Social networks can be a forum for debate, awareness and the creation of public pressure.
- There is the need to build the right relationships with the right people across various areas for securing water and sanitation entitlements.
- Sometimes while working for access to rights, the action may be morally right but legally wrong.

#### *Experiences of working on right to water and sanitation*

- The constitutional provisions for empowering people are there in India through the provisions under the 73rd and the 74th amendment. However, the process of real empowerment of people is long and arduous and there is a long way to go.
- The main obstacles to ensuring rights and entitlements to people are the attitudes of the politicians, government officials, big landowners, feudal chiefs and contractors. The contractors find it easier dealing with politicians rather than empowered people who tend to question their wheeling and dealing (as for example through social audits).
- Pani Panchayats help communities articulate their demands and also mobilize them to demand their rights. There are instances when Pani Panchayats through active campaigns have spread the awareness of government schemes and provisions and taught people how to access these.

#### *Case reports on water and sanitation rights*

- Public monitoring programmes for areas impacted by industrial pollution are a good tool. Such monitoring programmes should involve communities (i.e. the public) in monitoring the industries (polluter) and service providers (e.g. the municipality).

## Spreading Water Over Ballot

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Richard Mahapatra, WaterAid India

*Communities across the country took up the issue of water during the general elections with innovative ways of protesting.*



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This is an alliance political parties found difficult to ignore. Across the country, more prominently in poverty stricken pockets, many civil society groups and citizens came together to form solid alliances to convince candidates contesting elections to commit on their demands before asking for votes. The key issues that feature in this series of actions were related to scarcity of water and better living conditions in villages.

In Chitrakoot district (Uttar Pradesh) in the drought-stricken Bundelkhand, civil society groups set up an army of 550 'Jal Prahari' (water warriors) consisting of individuals who were experiencing water scarcity. Each of these water warriors, armed with a list of activities to ensure water in their villages, met contesting candidates and sought commitments for solutions. Practically candidates only started campaigning after meeting villagers, listening to their demands and committing solutions, recalls Pushpendra, a social activist based in Chitrakoot.

In Indore city of Madhya Pradesh, the slogan of the opposition Congress party was: "Liquor, liquor everywhere but no water to drink." The city with all of its drinking water sources virtually drying up has been depending on erratic supply from water tankers. The city authorities had to deploy police to guard water tankers as riots broke out. Scarcity of drinking water soon became

the key election issue. The Congress picked up street conversations on water scarcity and turned these into campaign slogans like the one above.

In Uttar Pradesh's Mahoba district, around 2,000 voters of Pachpechra village (coming under the Hamirpur-Mahoba parliamentary constituency) put an unusual demand before the candidates, asking them to give in writing that they would fulfill their demands or quit from their membership of Lok Sabha. "In the name of developmental schemes in our village, politicians have been taking our votes. But this time we have initiated this campaign so that politicians cannot exploit us any more," said Prithvi Yadav, a local resident.

Pachpechra's residents evolved a form with a list of development works to be undertaken. The candidate had to tick the works he/she would do after winning. Along with this he/she was asked to give an undertaking that if the identified works are not done he or she would resign. A key demand of the village has been ensuring drinking water in the village. In the last five years the district has been reeling under severe drought. "Of the 30 hand pumps in the village, a majority do not function. As a result there remain only six wells to cater to the water needs of the over 3,500 people in the village," informs Shivkumar Goswami, a local resident.

Residents of Morbi town in Gujarat's Rajkot district threatened to boycott the poll. Few residential blocks of the town were not getting drinking water for almost a year. After a series of protests, the residents used the general elections as an opportunity to pressurize the politicians to ensure drinking water. The town's requirement was 45 million litres a day while it was getting around 30 million litres. In fact water availability became the poll issue in the elections. And the ruling Bharatiya Janata Party candidate lost elections despite a seemingly pro-incumbency wave.

*This article is based on a compilation of various media reports.*

# People's Manifesto

Richard Mahapatra and Toolika Ojha, WaterAid India

*In the last general elections people set the agenda for politicians through an initiative called the 'People's Manifesto'. Few political parties did respond to the demands; those who did not are paying a price.*

On the eve of general elections in India during April 16 - May 13 2009, the country saw an interesting polarization, real space campaigning v/s virtual space campaigning. As political parties invaded almost all available spaces in the virtual world of World Wide Web, there was another campaign that was slowly gathering momentum.

For more than four months in the run up to the general elections, over 4,00,000 people from 365 parliamentary constituencies spreading over 29 states and union territories were busy drafting people's manifestoes to be put to the political parties.

The *Wada Na Todo Abhiyan* (WNTA) - keep your promise campaign, an association of 600 civil society groups, initiated the people's manifestoes to set the agenda for the elections from the citizen's perspectives.

Activists of the initiative said that "people did not vote so they could brandish an inked finger as a status symbol, but because it was a way to organise decisively around local priorities." Amitabh Behar, convener of the initiative that covered over 3,000 NGOs and networks across 23 states says, "The People's Manifesto will be poor and marginalised people's non-negotiable demands that every political party will need to promise in its manifestoes for the forthcoming elections. The Abhiyan has been tracking the UPA government's National Common Minimum Programme over the last four years but this is the time to start thinking beyond, to what ordinary citizens need from the government, irrespective of which party comes to power".

## A ground swell

Through this initiative, each constituency drafted a 10 point manifesto of its own. The manifesto is basically a local-based

development plan that should be given priority by contesting politicians. The process of getting this manifesto is interesting and reflects local development priorities. "This is possibly the most extensive effort to establish a grassroots driven, people's development agenda in recent times," informed Alok Vyas from WNTA, Rajasthan.

It was a two-stage process. In the first stage civil society groups held public meetings in cluster of villages to list local needs and concerns. In the second stage, this list was again taken to people through public hearing representing various communities and groups to bring out the 10-point manifesto. This manifesto was submitted to various political parties for inclusion in their respective manifesto. This involved wide advocacy and lobbying with politicians from local to state and national level. The media was used to inform on the issues featuring in people's manifestoes.

The process brought out the stark disconnect between politicians and the people on the perception of the issues that needed to be addressed. At the same time, political parties sensing the vigor of people involvement in the process could not outrightly ignore the demands.

## A fluid prescription

WaterAid India's Policy and Partnerships Unit analysed 100 such manifestoes to feel the pulse of people on drinking water and sanitation issues. Fifty-six manifestoes had drinking water and sanitation as two of 10 key demands. Besides, all the manifestoes had specific demands on overall water issues. First, many manifestoes demanded drinking water supply for specified time and period. This was to do away with the uncertainty in drinking water supply. Given the involvement of women in drafting of people's manifestoes and the suffering they undergo due to erratic water supply, this is natural. In few manifestoes, communities demanded a water source for a cluster of 25 households as a norm. In few manifestoes, demands were made on striking a balance between drinking water

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and other uses like irrigation and industrial uses. This is important as drinking water from groundwater sources is increasingly facing competition from other uses like agriculture and industry.

On sanitation, in 24 manifestoes there were demands for total toilet coverage and better sanitation provisions. Interestingly, there has been demand for allocating Rs. 10,000 for each household for constructing a toilet instead of the current amount of Rs. 2,500 given as a subsidy under the Total Sanitation Campaign. In many manifestoes representing urban constituencies sanitation and sewage management have featured prominently in the 10 demands. As a part of the process, women had their own manifestoes. Here a key demand was to ensure greater access to public facilities and places for women. Availability of public and household sanitation facilities for women was a main demand. The charter of demands drafted is being presented as a blueprint for governing India over the next five years and to end poverty and social exclusion. Some of the major issues that came up from the people were:

- Basic infrastructure in every village and urban settlement, which includes safe drinking water, household level toilets and water supply, effective drainage and sanitation systems, electrification, connecting roads, public transport services and rail networks emerged as the highest priority in 20 of the 29

states covered;

- Special focus on upgrading infrastructure in communities inhabited by dalits, adivasis and minorities;
- Quality health and education as a right protected by law;
- Special measures to ensure food security and nutrition;
- Expansion of right to work and social security entitlements;
- Lifeline programmes for agriculture and rural economy;
- Greater political representation of women, youth and marginalised groups;
- Transparency in government dealings and greater public participation;
- Implementation of police and judicial reforms;
- Priority for national integration and zero tolerance for violence and terrorism.

A comparison of people’s demands and the ruling United Progressive Alliance’s agenda reveals that some of the concerns of the people do get reflected in the government programmes (See Table 1). However, it remains to be seen whether the government will accord the same priority to these as the people have. Past experience has shown that implementation of government development programmes leave a lot to be desired. There has to be a consistent effort from civil society organisations to keep the government accountable to its promise of removing poverty and exclusion and to meet the objectives set in the UN Millennium Development Goals.

**Table 1: People’s demands vis-à-vis ruling government’s agenda**

People’s manifesto	United Progressive Alliance’s Agenda
<ul style="list-style-type: none"> <li>• Safe drinking water for every settlement</li> <li>• Household level toilets and water supply</li> <li>• Universal access to drainage and sanitation systems</li> <li>• Universal access to power (electrification)</li> <li>• Connecting roads, public transport and rail networks</li> </ul>	<ul style="list-style-type: none"> <li>• Indira Awas Yojana targets doubled and Rajiv Awas Yojana for slum free India in 5 years</li> <li>• 2nd phase of Bharat Nirman</li> <li>• Rural Water Supply Programme to be completed by 2011</li> <li>• Reaching 40 per cent rural telephone density as per rural telecommunication target</li> <li>• Regulatory and legal framework for Public Private Partnerships</li> <li>• Integrated energy policy</li> <li>• Voluntary technical corps under Jawahar Lal Nehru National Urban Renewal Mission</li> </ul>

Source: WNTA Delhi June 2009

The denial of water and sanitation amounts to violation of basic human rights. This has been recognised by the citizens and civil society organisations across India. There is a growing realisation that people ought to have their basic entitlements by demanding the same from the service provider. The recent years have seen greater civil society engagement with political parties on not only raising awareness on water and sanitation issues amongst the political class, but also influencing them to take measures to address these needs.

Modern Architects for Rural India (MARI), a WaterAid partner is a grass root level organisation working on water and sanitation as one of its key activity areas. At present, MARI works in about 200 villages in Andhra Pradesh with staff strength of over 300. The organisation is also an institutional member of Freshwater Action Network (FAN).

In line with its commitment to highlight issues of public concern MARI organised a one-day advocacy event for policy change in the water and sanitation sector. The event was timed well with the announcement of General Elections 2009, for the parliament and state assembly in Andhra Pradesh.

### Getting started

The highlight of the pre-campaign was a 'point to point race', with the race beginning at the drinking water source tank for Warangal (district headquarters) and culminating at the storage tank. As a precursor to the race, extensive dialogue was held with villagers on water and sanitation issues and the problems they encounter daily. Community members were encouraged to raise watsan issues which they consider as their pressing priority. During these discussions people from within the community who had the potential to articulate their issues at the district level event were identified and group consensus on their representation was sought. Thus about 200 local representatives from about 72 settlements were identified.

Community leaders articulated their problems and suggestions on what needs to be done in their villages for improved water and sanitation conditions. Drawing from this, MARI drafted a memorandum on behalf of the community, which was presented to the group for consensus and endorsement. It was decided to present the memorandum to all the political parties with a demand to include specific points of action in their election manifestoes.



The memorandum called for the attention of all political parties, with the argument that politics between parties may differ but fundamental issue faced by the people are universal and therefore, all political parties must agree on common issues and incorporate them in their election manifesto.

### The outcome

A citizens' committee consisting of five members was formed which met all the prominent political party leaders and presented the memorandum as peoples' demands. As a result, most of the issues raised in the memorandum were incorporated in the election manifestoes of seven political parties in Andhra Pradesh.

This experiment thus was a successful demonstration that micro level advocacy actions can be an effective tool to influence political actions.



Vijay Kutty

As the world geared up to witness the world's largest democracy elect its new government, people in the villages of India started weaving their expectations from the politicians who visited them seeking their votes. This article depicts an attempt by rural people of Sambalpur, Orissa who presented their menu of demands to the politicians. Not surprisingly, water came out to be a major issue. Hundreds of participants who came from all blocks of the district decided to demand quality drinking water, toilets and irrigation, among other demands, in lieu of their votes.

The charter gave a clear call "listen to our demands and we will give you our vote." These demands were not rhetoric alone. People took their demands to the politicians. This charter of demand was taken to all villages where people sought its inclusion in the manifesto of the contestants. The aim was to mainstream water and environmental issues into the political agenda. The charter of demands are as follows:

#### **Water conservation and drinking water supply**

- Safe water must be supplied to each household after appropriate treatment;
- Drinking water is emerging as a big concern. This is due to neglect of surface water harvesting and over dependence on groundwater. The government must give priority to surface water sources as the preferred drinking water source;
- In absence of proper surface water sources, open dug wells may be preferred over deep tube wells as sources of drinking water.
- Water conservation is the need of the hour, not just for drinking water but for the sustainability of society. There was a rich water harvesting tradition – with networks of *kata*, *muda*, *bandh*, *chua*, *chahala* etc. - in Western Orissa. But most of these structures have decayed and are lost due to consistent

neglect. All these structures must be restored and new water harvesting structures should be created. A clear roadmap with fixed time frames must be prepared for integrated water harvesting and conservation.

#### **Safe sanitation as a right**

- Sanitation, especially rural sanitation, has been grossly neglected. We welcome the government's initiatives under the Total Sanitation Campaign (TSC). But a lot needs to be done at the district level to ensure effective implementation of TSC;
- Above Poverty Line (APL) - Below Poverty Line (BPL) division is a hindrance to total sanitation initiative. We demand that there should not be any distinction between APL and BPL families under the TSC. The subsidy component for the BPL families has been used by vested interests to construct toilets without any household participation. This has led to construction of toilets of inferior quality resulting in their non-usage. We demand that all such unused toilets be re-constructed with total household participation;
- All toilets must have assured supply of water.

#### **National Rural Employment Guarantee Act**

- Farm ponds should be excavated in the farm lands of all BPL households within the next five years;
- The payments to job card holders are being made through Banks or Post Offices. While we support that move for reasons of transparency and truthfulness, we are forced to lose valuable productive time and energy in going to the Banks and Post Offices for transactions as they are situated at quite a distance from the places where we live and are always crowded. Thus the days on which we go to Post Offices or Banks to withdraw money should be counted as work days and full wage for that day must be given

to us. In addition, we must be given travel allowance for our return travel to the Banks and Post Offices.

**Comprehensive agriculture and water harvesting plans needed**

- Western Orissa is considered as the rice bowl of the state. But in spite of being the main source of income, agriculture still largely depends of rainfall. Thus water supply for agriculture requires topmost priority;
- A five year strategic agriculture development plan for our area should be prepared. Government development initiatives must centre around land development; rain water harvesting and storage; and development of the agriculture sector;
- Low cost agriculture practices must be given priority to make agriculture sustainable. Indigenous seed conservation, land management, local technology and wisdom must be given priority in development of agriculture;
- Crop losses due to drought and monsoon aberrations have increased. But drought is yet to be included in the ‘relief code’. Drought must be categorised as disaster and included in the relief code;
- Agriculture extension services have failed to reach the target communities. All agriculture extension measures must be village oriented;
- Agriculture must be integrated with the Panchayati Raj system. All agriculture plans must be integrated with the annual action plan of the panchayats. All these plans must be approved and accepted by the Pallisava and Gramsava;
- No land is unfit for vegetative growth or environment conservation. We cannot buy the arguments that as some lands are unfit for agriculture they can be used for industrial purposes. We belief that such type of land will have better environmental and economic value if put into water harvesting or other environmental use rather than industrial use.

**Right on forest and forest produce**

- Many deserving forest dwellers have

- not been able to apply for rights under ‘The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006’ due to lack of awareness and other reasons. Thus the Act must not be confined to specific time period as it is aimed for people who are least capable in getting information and asserting rights;
- The Panchayati Raj department should formulate comprehensive plans and earmark budgets;
- Community Forest Management (CFM) must be given legal recognition;



Ranjan Panda

- The Orissa Village Forest Act, 1985 must be suitably amended to give total right over kendu leaf and other forest non-timber forest produces. The ‘Vana Sanrakshana Suraksha Samiti’ system should be completely dismantled and CFMs should be given full legal recognition;
- All kendu leaf pluckers must be brought under appropriate life insurance cover.

The candidates assured the people to look into their demands. A new beginning has certainly been made and people of the region hope that this will usher in a new era of conscious actions to make western Orissa drought and poverty proof.

## It is about my Right to Water

Indira Khurana, Romit Sen, D. Johnson Rhenius Jeyaseelan WaterAid India and Priya Tripathi, Teri University

The foundation for the Right to Information (RTI) was laid in India in the year 1975 by a landmark judgment of the Supreme Court in which it ruled that 'where all the agents of public must be responsible for their conduct, there can be but few secrets. The people have right to know every public act, everything that is done in a public way by their public functionaries. The responsibility of officials to explain or to justify their acts is the chief safeguard against corruption and oppression'.

The Act also requires every public authority to computerise their records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum recourse to request for information formally.

Under Section 4(b) of the Right to Information Act, all the state agencies within 120 days of the enactment of this act had to pro-actively disclose the necessary information of their departments. Right to information provides the citizens information and it depends on the citizens how they use the information to realize their right. This act has helped people get a mechanism to voice their concerns and seek answers from the service providers. The following examples illustrate how people have used the RTI for issues relating to water, sanitation and right to work:



WaterAid India

### Punishing the polluters

In Sathyamangalam village in Tamil Nadu, the members of 'Bhavani river water, potable water and ground water conservation movement' filed an RTI application asking for the pollution levels in the river. They suspected that the paper and pulp factories in the region discharged untreated effluents in Bhavani river. On receiving the information from the State Pollution Control Board, the villagers used this as an evidence. They filed complaints in various departments which resulted in suspending power supply to a few factories. The process is on to ensure acceptable level of effluent discharge.

### Mission clean

Santosh, a 22 year old girl, is an RTI activist engaged with Parivartan, an NGO working in Pandav Nagar area of East Delhi. Santosh recalls the days when the area was extremely dirty as the sweepers never attended their duties. Volunteers of Parivartan submitted an RTI application to seek the attendance register of the sweepers. To their surprise, they

The Right to Information Act was enacted in 2005 by the Parliament giving citizens of India access to records of the Central and State Governments. The Act applies to all States and Union Territories of India, except the State of Jammu and Kashmir, which is covered under a State level law. The passage of this act took inspiration from the numerous state legislations that had already been passed on this issue across the country, particularly those of Maharashtra and Delhi.

Under the provisions of the Act, any citizen (including the citizens within J&K) may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days.

were marked present for all the dates. To strengthen their case, Parivartan volunteers formed Mohalla Samitis in every lane of the area and provided an attendance register. The attendance for the sweepers was marked thrice a day.

The representatives from the Mohalla Samiti followed the same procedure to mark the actual presence of sweepers. Later when the attendance register of the MCD official and Mohalla samiti were compared, there was no tally of attendance records. Armed with this information, a complaint was filed with the Municipal Corporation of Delhi resulting in sweepers coming back to work. They were threatened with salary cut, in case they do not attend duty. The situation has improved drastically with the sweepers now knocking the doors after cleaning the area to ask if the work has been done well. The journey for Santosh however was not smooth. The sweepers used to threaten and abuse her. Yet she carried on, until the sweepers began to report for duty and the area was cleaned.

### Testing contaminated water

Shapelli is a small village in Warangal district of Andhra Pradesh with the majority people belonging to the backward castes. The village had received the Nirmal Gram Puruskar last year and also has piped water supply for people in their homes. However, the water in the area has excess fluoride levels. The villagers have been suffering from mild to acute fluorosis due to consumption of fluoride rich water.

The village panchayat did not have a water quality testing kit and the residents wanted to have one to test the levels of fluoride in their water. The villagers filed an RTI application to know the status of the village getting a water quality testing kit under the water quality programme of the Public Health Engineering Department. The result of their action was that the panchayat got a water quality testing kit in the first phase of distribution which was due to them in the second phase under the normal course. The villagers are now using the kit to monitor the quality of water.

### Achieving success

In Rampura Dehat of Jalaun district of Uttar Pradesh people were unaware about



WaterAid India

government schemes and entitlements under the Public Distribution System (PDS) and National Rural Employment Guarantee Act (NREGA) programmes. They were not getting their jobs under NREGA, implementation of which was marked by severe shortcomings. The PDS was not functioning properly and there were delays in issue of Below Poverty Line (BPL) cards.

Parmarth Samaj Sevi Sansthan, a WaterAid partner stepped in. As part of their programme, a Village Water and Sanitation Committee (VWSC) was formed and community cadres trained on the various provisions under NREGA and other government programmes. They also sensitized the community on the use of RTI and submitted RTI applications to seek information. As a result:

- The panchayat allotted works like deepening of pond. The process of getting job cards has been streamlined. People are now getting better work and wages under NREGA.
- The people are getting food in appropriate quantity and with proper pricing. Correct entries are also being made in the ration cards.
- 35 people have received their Below Poverty Line (BPL) cards.



Abhiyan

### Miles to go

Though the RTI Act was passed in 2005, all the sections of the act have not been implemented. There are challenges in the process of seeking information from the government departments. People are not getting the desired information on time and there have been instances in Jharkhand where it has taken 180 days for people to get a response.

The level of awareness of people on the use of RTI continues to remain low. A study by National Campaign for People's Right to Information across ten states of India has revealed that 45 per cent of urban respondents (from state capitals and the national capital) claimed that they knew about the RTI Act while 40 per cent of the respondents in district headquarter towns knew of the Act. In rural areas the figure was a dismal 20 per cent. Thus, the success of the RTI Act will depend on the legal literacy of the common people.

While RTI has increased people's pressure on government institutions and helped in solving their problems, there have been examples where people have opted out because of the harassment faced in their fight for seeking information.

Shyam Prakash, a 40 years old carpenter,

in Kasba village of Jalaun district of U.P was a pioneer in filing RTIs in his village. He filed an RTI seeking information of total funds spend in the development of the village. On not receiving information from the pradhan he moved the application to the Public Health Engineering Department so as to create a pressure on the pradhan to provide him with the information.

The pradhan started threatening him. Nobody knows what threat Shyam Prakash got from the pradhan, but one day Shyam Prakash left the village with his family. No one knows where they have gone. For the intimidated villagers of Kasba, RTI is a nightmare, mention of which brings forth the memories of Shyam. They are happy to adjust with the problems rather than challenge the authorities.

RTI is an important tool to help people realise their right to safe water and sanitation. WaterAid India's (WAI) partners have been training communities on the use of RTI. People in WAI project areas have filed RTIs to seek information on the implementation of government programmes, expenditure under various schemes and monitoring of programmes related to water and sanitation and various other social security programmes.

The Hon'ble Supreme Court of India has taken a serious note of the water crisis facing the country. In recent judgments, it has observed that the Right to Water is part of Right to Life guaranteed under Article 21 of the Constitution of India. Some observations of the SC are quoted below:

“Water is a gift of nature. Human hand cannot be permitted to convert this bounty into a curse, an oppression. The primary use to which water is put being drinking, it would be mocking nature to force the people who live on the bank of a river to remain thirsty”.....

- Delhi Water Supply & Sewage Disposal Undertaking and Anr. Vs. State of Haryana and Ors.

“.....Right to live guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilized society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights or under the

Constitution of India cannot be exercised without these basic human rights.”

-Chameli Singh & Ors.Vs. State of Uttar Pradesh & Ors.

The same view was taken by the Court in several other decisions. Noteworthy is the judgment on conservation of wetlands given in March 2009 on a writ petition related to protection of wetlands in the country for preservation of the environment and ecology (State of Orissa vs. Government of India and Another). The Court *suo moto* expanded its scope and issued notice to the Secretary, Ministry of Science and Technology, Government of India asking what measures were being taken to solve the water shortage problem in the country and for implementing the recommendation of the court.

The government had to respond within four weeks. The Supreme Court observed that one of the main reasons for the acute shortage in the country was that most of the water conservation bodies were filled up in recent times by some greedy persons.



Vijay Kutty

The court in its judgment observed that “Unfortunately, people have forgotten the wisdom of our ancestors and that is why some greedy people, for their personal interest and to make money, have filled up most of the ponds, tanks, etc, and have constructed buildings thereon with the result that in most parts of India, there is terrible water shortage and people are suffering terribly, particularly in the summer season in both rural and urban areas.”

The court directed the Central Government to immediately constitute a body of eminent scientists in the field who should be requested to undertake scientific research to find out ways and means of solving the water shortage problem in the country.

have progressed significantly in this area.

In particular this body of scientists should be requested to perform the following tasks:

- To find out an inexpensive method or methods of converting saline water into fresh water;
- To find out an inexpensive and practical method of utilising water converted from ice in the Himalayas;
- To find out a viable method of utilising rain water;
- To utilize the flood water by harnessing the rivers so that the excess water in the floods, instead of causing damage, be utilized for the people who are short of water, or be stored in reservoirs for use when there is drought.

The recommended body of scientists should be constituted immediately failing which the hardships of the people of India will further increase causing great suffering and social unrest everywhere. The problem brooks no delay for being addressed not even for a day noted the Supreme Court. It quoted a World Bank report that has pointed out that despite the alarming situation there is widespread complacency on the part of authorities in India on the issue

The seriousness accorded by the highest Court to the water shortage in the country can be gauged from a subsequent judgment delivered in April 2009, which directed the central government to form the committee at the earliest, latest within two months from the day of the judgment. 'This committee shall have the Secretary, Union Ministry of Science and Technology as its Chairman. Amongst the members of the Committee will be the Secretary, Union Ministry of Water Resources', the court directed.

The Supreme Court proposes to monitor the case. For this purpose the matter will be listed on the second Tuesday possibly of every alternative month.

A progress report will be submitted by the Chairman of the Committee who is requested to be personally present before the Court.



Supreme Court

This body of scientists are to be given all the financial, technical and administrative help by the Central and State Governments for this purpose. Help and advice of foreign scientific experts and/or Indian scientists settled abroad who are specialized in this field may also be taken, since the solution to the problem will not only help India but also foreign countries which are facing similar problem, some of which may already

# Securing Safe Water: Important Court Judgments

Priya Tripathi, Teri University

Among the diverse uses of water, water for drinking and sanitation fulfill the basic needs for life. The National Water Policy, 2002, prioritises the diverse uses of water and keeps water for the drinking purpose at top of the pyramid. The right to drinking water is recognised in India as a fundamental right implicitly under the provisions of the Constitution and through various judicial interpretations. The Constitution of India has enacted various acts and legislation which provide the guidelines to the states for ensuring effective water supply and sanitation.

There exist various judicial provisions which a citizen can use in case the state does not fulfill its responsibilities effectively and there is a breach of these basic human rights.

The table below highlights few important court cases and their citation. The cases are related to the following categories:

- poor water quality
- poor sanitation condition in the city
- water pollution
- water tax
- depletion of water sources

**Table 1: Court Cases and their judgments**

Name of the case	Deciding Court	Citation
Hamid Khan V/s State of M.P	High Court of Madhya Pradesh - 1973	<p>The case was concerning the presence of excessive fluoride in the drinking water handpumps set up by the Government leading to illness amongst the inhabitants of the district.</p> <p>The Court held that this represented a failure on part of the State to fulfill a primary responsibility towards it's citizen and that the right to water was a fundamental right. It ordered the State to ensure clean drinking water is supplied to the citizens and to provide free medical aid to those affected by the consumption of fluoride.</p>
Municipal council of Ratlam V/s Vardhichand	Supreme Court of India - 1980	<p>The case was related to extremely poor sanitation condition caused due to pungent smells from open drains, public excretion in slums, and the liquids flowing in the street from the distilleries, in the area coming under Ratlam Municipality. The residents approached the magistrate.</p> <p>The magistrate ordered the municipality to take measures to improve the conditions. The municipality challenged the order of the magistrate in the Supreme Court. In the Judgment, the court ordered the municipality to take necessary action within a stipulated time frame of 6 months. In case of non-compliance, the magistrate was given the authority to punish the offenders.</p>



Ranjan Panda



WaterAid India

<p>L.K. Koolwal V/s State of Rajasthan</p>	<p>Rajasthan High Court - 1988</p>	<p>The case was related to the sanitation problem in Jaipur city. The Court drew its judgment from article 21, article 19(A) and chapter VI of the Rajasthan Municipalities act, S.98. The court ordered the municipality to perform its duty within six months.</p>
<p>Subhash Kumar V/s State of Bihar</p>	<p>Supreme Court of India - 1991</p>	<p>Subhash Kumar filed a PIL to bring to notice the pollution of Bokaro River by the washeries of TISCO (TATA Iron and Steel Company).The court held that right to life includes the right to enjoy unpolluted air and water. If anything endangers or impairs the quality of life in derogation of law, a citizen has the right to move to Supreme Court under Article 32 of the Constitution.</p>
<p>V. Lakshmipati V/s State of Karnataka</p>	<p>Karnataka High Court</p>	<p>The court held that entitlement to clean water is one of the recognized basic human rights. The right to life inherent in Article 21 of the Constitution of India does not fall short of the required quality of life which is only possible in the environment of quality.</p>
<p>Indian Council for Enviro-Legal Action and Ors. V/s Union of India (UOI) and others.</p>	<p>Supreme Court of India - 1996</p>	<p>The case concerned pollution of water sources in Bicchiri village due to the setting up of industrial units which manufactured acids in the region. The court ordered the closure of the units. It also asked the industries to clean the sludge which was left in the area after the closure. It asked the industries to pay compensation to the victims as well.</p>
<p>Lucknow Griha Swami Parishad V/s State of U.P and others.</p>	<p>High Court of Allahabad (Lucknow Bench) - 2000</p>	<p>The case concerned levying of water charges by U.P. Jal Sansthan. The court ordered that the consumer should pay according to the earlier rates and the new raised tax levels cannot be implemented.</p>
<p>A.P Pollution control Board II V/s Prof. M.V.Nayadu and others.</p>	<p>Supreme Court of India - 2000</p>	<p>The case concerned pollution of Himayat Sagar lake and Osman Sagar lake - the main drinking water sources for 50 lakh people in Hyderabad and Secundrabad by the industries. The court ordered the closure of industry.</p>

<p>U.P. Udyog Vyapar Pratinidhi Mandal and Ors. V/s State of U.P. and others.</p>	<p>High Court of Allahabad - 2003</p>	<p>According to the court, providing drinking water facility is the statutory duty of the zilla parishad and it has no right to charge for extra fees for this purpose. The writ petition was quashed.</p>
<p>Hindustan Coca-Cola Beverages (P) Ltd. V/s Perumatty Grama Panchayat</p>	<p>High Court of Kerala - 2005</p>	<p>The Gram Panchayat refused to give license to the petitioner on the grounds that the over-extraction of groundwater was leading to water shortage in the region and the waste from the industry was polluting the water source.</p> <p>The court held that the Panchayat has no right to cancel the order of the government. The decision of the Panchayat is not based on any scientific findings and it is also not backed by any legal measures. The court ordered the company to take measures which could solve the drinking water problem of the people.</p>
<p>Consumer Education &amp; Research Society &amp; others V/s Ahmedabad Municipal Corporation &amp; others</p>	<p>National Consumer Dispute Redressal Commission, New Delhi - 2008</p>	<p>Consumer Education Research Society accused Ahmedabad Municipal Corporation (AMC) and the state government against the death caused by jaundice due to contaminated water supply by the AMC.</p> <p>The court ordered the AMC to inspect the water tanks at regular intervals. It also ordered it to follow the WHO guidelines as far as drinking water supply is concerned. It ordered the state government to look into the activity of the AMC. No punitive damage was awarded.</p>
<p>M.K. Balakrishnan and others V/s Union of India and others</p>	<p>Supreme Court of India - 2009</p>	<p>The case concerned the conservation of wetlands. However, the court in its judgement expanded the scope and asked the Ministry of Science and Technology to submit an affidavit explaining the measures which have been taken to solve the water crisis in the country. The case is ongoing.</p>



Binu Nair

This article is based on a research done by Priya Tripathi as part of her internship with WaterAid India.

## Action Speaks Louder than Words

Sanjay Singh, Parmarth Samaj Sevi Sansthan

WATERDROPS

The Bundelkhand region of central India has seen low rainfall and successive droughts for the past four years. This has resulted in shortage of water including drinking water forcing people to migrate to nearby towns and cities. Drinking water problem in this region has been persistent since Independence. The introduction of handpumps for providing water helped address the problem but its long term impact was not seen. With falling rainfall and degeneration of water harvesting and recharge structures, groundwater aquifers became empty resulting in handpumps becoming dysfunctional at many places. People of the region now believe that the current problems related to the shortage of water is due to the gradual waning of the culture of water harvesting which persisted in this region centuries ago.

General Elections in early 2009, people saw a window of opportunity. "We shall cast our vote only to those candidates who give us the drinking water" said the villagers. People have become sensitive to the issue of drinking water due to prolonged negligence of government officials and public representatives.

### Shave for shower

The initiative of the people of Garha village in Modaha block of Hamirpur district is interesting. This village has not seen an assured supply of water since Independence. Repeated attempts of voicing their concern to the officials have yielded little results.

Handpumps were installed in the village but these yielded saline water, unfit for drinking. As a solution to their problem the villagers decided to get water from the Chandrabal River by digging wells and fetching water by bullock carts. This was however a short term measure and being seasonal, the river did not yield water during the peak summer months.

When the water scarcity intensified in the month of March-April this year, people again approached the government officials for providing water. District officials shooed the villagers away by stating their inability to provide water due to the election code of conduct.

The patience of the people of Garha finally caved in. As a mark of protest, the villagers shaved off their heads and undertook a cremation ceremony of the government departments. This incidence was reported by the print media of the region with major newspapers carrying out images of the cremation ceremony and the protest rally undertaken in the village. The district administration came into action after the newspaper reports came in and the tehsildar made a visit to the village to take stock of the situation. The villager's message to the tehsildar was loud and clear, "drinking water is our right and we should have it in adequate amount".



Parmarth

Faced with the acute water shortage people resorted to knocking the doors of the service provider to solve their problems of drinking water. Various representations to the line departments and authorities yielded little results.

Providing water has always been a political issue in Bundelkhand with all political parties promising water and asking for the support of the people in return. These promises have seldom been kept, resulting in people losing faith in the public representative. However, with the announcement of the

## When Collective Voices Ensures Action

Niraj Kumar, Society for Advancement in Tribes, Health, Education and Environment

WATERDROPS

The Citizens' Action initiative in Santal Parganas division of Jharkhand state has been working to ensure transparency and accountability in local governance especially in the area of water and sanitation, National Rural Employment Guarantee Scheme and implementation of other social security schemes. The Santal Parganas division is primarily inhabited by tribals. Through Citizens' Action, citizens of the region are engaging in a dialogue process to negotiate with service providers.

As part of the programme, a public hearing was organized in Dumka, the divisional headquarters of Santal Parganas, on February 19, 2009. Around 500 community leaders, cadres, Gram Sabha and Village Water and Sanitation Committee (VWSC) members participated from Jama, Raneshwar and Ramgarh blocks. Besides, block level Junior Engineers, Assistant Engineers, Executive Engineers from the water and sanitation department were also present.

Prior to the hearing the villagers had carried out social audits in their area to ascertain the situation of water, sanitation and health programmes being implemented in their area. The Gram Sabha members and cadres presented their findings on the audits. These findings are mentioned below:

- In 59 villages of the three blocks of Ramgarh, Raneshwar and Jama comprising 3,717 families, only 356 Individual Household Latrines (IHHL) have been constructed under the Total Sanitation Campaign;
- A total of 238 handpumps have been installed in these villages. Of these 90 handpumps are dysfunctional;
- Only seven school sanitary complexes have been constructed in these villages;
- The only mode of Information, Education and Communication (IEC) activities carried out in these villages are wall paintings, which have had little impact in inducing behavior change.

The Gram Sabha members and cadres spelt out the following four major issues



requiring urgent attention from the government authorities: (a) non - functional handpumps; (b) disposal of solid and liquid waste; (c) delay in the construction of IHHLs and school sanitary blocks; and (d) water quality monitoring / testing of drinking water sources.

The findings were compiled into a report and submitted to the Executive Engineer-cum - Member Secretary, District Water and Sanitation Department. Noting the observations the Member Secretary announced a number of steps for solving the problems which included:

- Creation of a district control room to resolve water issues within two days of receipt of complaint; and,
- Immediate repair work to begin for all the defunct handpumps within 15 days.

As a follow-up the Divisional Commissioner, Santal Parganas has taken suo moto action and called a meeting of all the engineers of the division on 20th February. Telephone number along with staff position of all concerned people was published in all the local news papers for greater accessibility.

Thereafter two handpump repairing and installation vans moved to the villages to repair and restore the non functional hand pumps. As a result over 30 handpumps have been repaired. Funds have also been released to complete the school sanitary complexes.

Sathee



Union Carbide, responsible for the 1984 gas disaster in Bhopal due to which an estimated 25,000 people lost their lives so far, had known for more than a decade that chemicals from its abandoned and dilapidated Bhopal factory were poisoning the drinking water of local communities.

During Carbide's 15 years of operation, production by-products were buried onsite and the industrial effluent pumped to the factory's solar evaporation ponds (SEPs) leaked frequently causing pollution of drinking water sources nearby. Drinking water supplies were often dis-coloured and had a strong chemical smell and taste.

In 1999, Greenpeace International provided the first public and scientifically reliable evidence of massive and spreading groundwater contamination emanating from the Bhopal plant in its report, 'The Bhopal Legacy'. Greenpeace collected 33 soil samples and 22 groundwater samples from in and around the factory and the results of the analysis showed the presence of high concentrations of carcinogenic chemicals and heavy metals. Twelve volatile organic compounds, greatly exceeding World Health Organization and US Environmental Protection Agency standard limits, were found to have leached into local tube wells. Levels of

mercury in some places were six million times higher than expected.

### Slow poisoning

The effects of the contamination are now becoming evident. In 2003, a survey conducted by Sambhavna Clinic in Annu Nagar, a *basti* next to the factory site, found every second person suffering from a multitude of symptoms including, anaemia, abdominal pain, giddiness, chest pains, headaches, fevers, vomiting and diminished vision. Later in 2004 a small-scale epidemiological survey done by the Madhya Pradesh Government's Centre for Rehabilitation Studies noted that residents of communities affected by groundwater contamination have higher rate of skin, respiratory and gastrointestinal diseases.

However, the enormity may be much worse and more extensive than those revealed in this survey. In December 2002, the Fact Finding Mission on Bhopal by Delhi-based environmental organisation Shristi confirmed heavy metals like nickel, chromium, mercury and lead in the breast milk of the nursing mothers. The groundwater contaminants include some that are toxic, potentially carcinogenic and mutagenic. Infants born with congenital defects like cleft



Shalini Sharma



Shalini Sharma

lips, missing palate, stunted growth and cerebral palsy have already been observed in high numbers in the affected communities.

### Evading responsibility

Union Carbide demonstrated reckless and depraved indifference to human life through its Bhopal operations. Unproven technology and cost cutting marked the operational standards designed for the Bhopal plant. There were several differences between the Bhopal plant and Carbide's West Virginia plant, the most significant being the mechanisms for waste effluent treatment and disposal. In West Virginia, waste effluent would pass through a treatment plant before being discharged into the Kanawha River while at Bhopal, all raw effluent was discharged directly to the on-site SEPs for containment.

In a Union Carbide Corporation internal telex on 25 March 1982, the SEPs were reported to have 'almost emptied' through lining leakage. Despite being aware of the danger the company chose to do nothing about preventing further contamination and alerting the communities. Two years later, these communities were left abandoned by the Company to face the worst effects of the gas along with the toxic laced groundwater-their only source of drinking water. Noticeably, Carbide continued to insist publicly that local drinking wells were safe and made behind-the-scenes efforts to rid itself of responsibility for the site.

In 1990, Union Carbide commissioned the Indian National Environmental Engineering Research Institute (NEERI) to make a study of contamination arising from the abandoned and by-then derelict plant. After publicly quoting NEERI's study to deny any danger, Carbide carried out its own emergency investigation and found severe poisoning of land and water. Later, one of the confidential documents revealed that Carbide itself placed no trust in the NEERI data. Carbide did not make these findings public. These documents were uncovered in 2002 during the "discovery" process in the New

York court action.

The key document, an internal company study entitled the "Presence of Toxic Ingredients In Soil/Water Samples Inside Plant Premises", gave a frightening insight into the cover-up perpetuated by Union Carbide. It stipulated that the samples drawn in June-July' 89 from land fill areas and effluent treatment pits were sent to R and D where majority of the liquid samples contained naphthol and/or Sevin in quantities far more than permitted by ISI for on-land disposal. All samples caused 100% mortality to fish in toxicity assessment studies and were to be diluted several fold to render them suitable for survival of fish.

A 1997 study commissioned by Carbide from Arthur D Little warned that pollution of the underground aquifer (could be happening at a rate far faster than imagined. In a worst case scenario, it could take as little as two years to contaminate the aquifer.

Sidelineing its own investigations Carbide instead initiated a "site assets recovery and rehabilitation project" in 1989. The project focused on assets recovery: 'rehabilitation' comprised infilling of the SEPs and some limited bulk chemical removal. This was done to evade any liability and shift responsibility to the Madhya Pradesh Government. The factory site was let to Union Carbide by Madhya Pradesh state on a long-term lease in 1969. The lease agreement stipulated the site should be handed back in 'habitable and usable condition'.

Then in 1994 Union Carbide sold its 51% stake in Union Carbide India Limited to an Indian company, Eveready Industries. In 1998, in an apparently bureaucratic blunder, the surrender of the lease was mistakenly accepted by a licensing branch of the local Madhya Pradesh State authorities, even while the State Pollution Control Board was supervising limited 'clean-up'. Today the site lies derelict and unremediated with about 32 hectares of overgrown wasteland, corroding tanks, towers, collapsing buildings and pipe work.

## Building case against Dow- Will the 'polluter pay'?

Survivor groups and activists have been demanding complete remediation of the site, provision of safe drinking water to people in the surrounding bastes and upholding 'Polluter Pays principle' by making Dow (current owner of Union Carbide) pay for clean up. But, due to the political and legal complexities and the absence of a suitable ground investigation, the Indian Government has not succeeded in applying this internationally accepted principle so far. Union Carbide is now a fully owned subsidiary of the Dow Chemical Company. Dow's official stance is that they have no responsibility to enact any further remediation.

Nevertheless, efforts to bring Dow to book have been going on both in the US and India. In the US in 2004, in a legal suit filed against Union Carbide by seven individual victims and five organisations, the US Federal Court ruled that the company could be made to clean up the site provided the Madhya Pradesh State and Indian national governments had no objection. This was finally confirmed in June 2004, with the Indian authorities stressing Union Carbide's responsibility under the 'polluter pays' principle. Later, Union Carbide appealed and the suit was dismissed in 2005. A sister suit by another victim, again filed in the US in 2007, is currently being adjudicated before the Second Circuit Court of Appeal. This second suit seeks damages for property loss and personal injury resulting from the contamination.

Meanwhile in India, the Ministry of Chemicals and Fertilizers brought a formal demand that Union Carbide and its successors pay about \$22 million towards the cost of a thorough clean-up in lieu of a legal determination of liability in a case in the Madhya Pradesh State High Court. Last year, the Indian Law Ministry gave the opinion that all of Union Carbide's liabilities resulting from Bhopal had to be borne by Dow. This further strengthens the case against Dow.

After an 800 km foot march and a six month long protest outside Prime Minister's

office by residents of Bhopal in New Delhi, last year in August, Indian Government finally conceded to their demands for an empowered commission and legal action against Dow Chemicals besides committing one billion rupees (£13 million) towards advancing many issues including the remediation while the responsibility is apportioned. The Indian agency whose inadequacies were revealed in prior assessments, NEERI, was assigned to assess the current status of contamination. Though activists remain apprehensive about this study and are demanding a fair and technically sound investigation, the study is critical for deciding on clean up plan. Another significant development occurred in March 2009 when 14 of the 22 settlements facing water contamination were covered by an alternate supply from Kolar pipeline. However, the Indian Government is yet to set up the empowered commission.

Facing massive public outrage, Dow launched fresh publicity campaigns to fabricate an image of being sensitive to human beings and the environment. Recently, the company sponsored Blue Planet Run in US displaying their commitment to safe water even though thousands continue to face the horrors of Carbide's poisons in Bhopal.

With a similar mandate, in India too, Dow pumped up its corporate social responsibility projects. Yet, with a more aware public and a new generation of Bhopal survivors taking the leadership of the struggle with renewed vigour, it is becoming increasingly difficult for Dow to evade questions on liability. Needless to say that Bhopal remains the symbol of Government inaction and Corporate unaccountability even as the debate on the liability of environmental and human suffering continues. With the disaster entering its 25th year on December 2009, Bhopal underlines critical lessons for world governments, corporates and citizens. However, if and when will the 'polluter pay' still remains to be seen!

*This article is based on a presentation made by Ms. Shalini Sharma, during WaterAid India's World Water Day Celebrations, March 26, 2009.*



Shalini Sharma

About 40 years ago when American astronauts landed on the Moon, their first effort was to enquire whether there existed water on the surface of the moon. Similarly, the present American scientists exploring the planet Mars are gravely concerned with the existence of water on its surface. This shows the importance of water as an inevitable component of existentialism. According to Manu Smriti, water is 'jeevan' which means life, and it condemns release of urine, night soil, blood or any dirty substance / poisonous substance into water. Thus, it dictates maintaining purity of water which is the strength of life for all.

in manufacturing raw leather and were discharging effluents into the river Ganga. This, despite the fact that the Supreme Court had given directions to the industries to set up primary effluent treatment plants and release the treated effluent. Setting up the primary treatment plant was necessary to remove the pollutants coming from the tanneries, which otherwise would have contaminated the Ganges.

The Supreme Court felt that there was no other alternative except to issue directions to these tanneries to stop working. It has further held that the leather industry is one of the three major industries besides paper and textiles, consuming large quantities of water for processing of hides and skins into leather. Naturally most of the water used is discharged as waste water. The waste water when discharged as such depletes dissolved oxygen content of the receiving water resulting in the death of aquatic life. Moreover, these untreated effluents also pollute the groundwater sources. The court also held that the concept of human environment is not only for the present generation but is an imperative need for future generation also.



## Judicial interpretations

In the Indian Constitution right to life is a fundamental right under Article 21 and is available to all citizens or non-citizens. In AIR 1991 Supreme Court 420 – Subhash Kumar V/s State of Bihar, it has been expressly held that right to live is a fundamental right under Article 21 of the Constitution and it includes the right of enjoyment of pollution free water and air for full enjoyment of life. If anything endangers or impairs that quality of life, a citizen has a right to have recourse to Article 32 of the Constitution for removing the pollution of water or air, which may be detrimental to the quality of life.

In an earlier case – AIR 1988 Supreme Court 1037 – M.C. Mehta V/s Union of India, certain tanneries were engaged

In (2001) 2 Supreme Court Cases 62 – A.P. Pollution Control Board II V/s Prof. M.V. Nayudu it referred to the resolution of the United Nations Water Conference in 1977 according to which all people, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantum and of a quality equal to their basic needs. It also referred to an earlier case, viz., Narmada Bachao Andolan V/s Union of India (2000) 10 Supreme Court cases 664 where it has been 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. In the aforesaid Prof. Nayudu's case it has been held that in view of the provisions of Environment Protection Act, 1986 and Water (Prevention and Control of Pollution) Act, 1978, State has no power or jurisdiction to issue any

No Objection Certificate for establishing any industry whatsoever unless the permission is duly granted by the State Pollution Board created under the Environment Protection Act.

In (2000) 6 Supreme Court Cases 213 – M.C. Mehta V/s Kamal Nath it held that even in cases when a company takes a lease for commercial purpose on forest land, it had no right to interfere with the natural flow of the river by blocking natural relief/spill channel of the river. This judgment has expanded the scope of Article 21 and fundamental rights and has held that it should be read along with Article 48-A and Article 51-A (g), the Directive Principle as well as the fundamental duty respectively. The court held that any disturbance of the basic elements of the environment, viz., air, water and soil, which are necessary for life would automatically be hazardous to life.

In (2002) 10 Supreme Court Cases 573 – Vineet Kumar Mathur V/s Union of India the court opined that in respect of Gomti River, if there is a real possibility of polluting oxidation ponds in towns which are identified as chief sources of pollution, the State must immediately take the steps for acquisition of such land within three months. Even if there are some delays on part of the National River Conservation Authority in taking a decision for the establishment of sewerage treatment plant, the state on its part has to initiate steps for acquisition of land.

In (2004) 12 Supreme Court Cases 118 – M.C. Mehta V/s Government of India it has again been rightly held that there is a fundamental right to enjoy pollution free water and air. The natural sources of air, water and soil cannot be utilised if the utilisation results in irreversible damage to the environment. It has been very clearly held in this case that life, public health and ecology have priority over unemployment and loss of revenue and that the concept of development and protection of the environment are not enemies but the concept of sustainable development must be applied to make a balance between the two.

In (2005) 11 Supreme Court Cases 544 – K.C.P. Sugar & Industries Corporation V/s

Govt. of A.P. it has been held that even if to prevent water pollution affluent treatment plants are established, then also it is the duty of the State authorities for periodic testing to ensure their smooth functioning. Thus constant monitoring of such plants was directed by the Supreme Court.

In Research Foundation for Science Vs. Union of India, 2005(13) SCC 668, it has been held that there is a fundamental right of hygienic and safe environment which includes the availability of clean drinking water as a fundamental right. In this case certain industries in two states of Gujarat and Madhya Pradesh had failed to discharge their duties; appropriate directions were issued by the court. It held that indiscriminate dumping of hazardous waste due to non-existent or negligent practices together with lack of enforcement by authorities, has resulted in the contamination of groundwater and in turn drinking water supplies have been affected. The State Governments of Madhya Pradesh and Gujarat were directed to take steps to supply fresh drinking water in tanks or pipes. The two states were further directed to ensure supply of water in such villages/areas, which are adversely affected on account of polluted water.

It may be added that a large number of cases have recently come up before the Supreme Court and in various pending cases miscellaneous applications are being filed every day on the sitting of special bench pointing out the negligence of the authorities in providing potable water and affecting environment specially forest lands.

In our Constitution there is also a scheme for equitable distribution of water flowing from a river and passing through various States. Authorities have been set up to hear the State Governments to work out their difficulties regarding sharing of river water. Two recent examples are Cauveri Dispute and Krishna Dispute, which are being resolved by setting up of Special Tribunal.

### **Rivers or drains?**

Now coming to the gloomy part, we find that several big rivers like Ganga and Yamuna, etc., have lost their beauty in over-flowing



WaterAid India



Ranjan Panda

even during monsoon period. Thus, floods are no longer a sight-seeing place and the rivers are being reduced to big open drains. Huge dams are blocking the flow of the rivers and diverting the flow of water. This coupled with construction of huge canals are responsible for this pitiable situation. The justification allegedly taken is that these are responsible for achieving extraordinary industrial growth and to compete with the world power, such activities does not take into account that after a few years the damage to the rivers could never be compensated. Various cases have been filed and they are pending seeking directions from the Supreme Court regarding maintaining of purity of water in the river Yamuna which is called as 'Maili Yamuna' and also the Ganga, but on account of continued assurance of full cooperation by the State authorities, the Courts are moving slowly in giving real and effective directions.

According to the report compiled jointly by 24 United Nations Agencies, growing global population, climate change, widespread mismanagement and increasing demand for energy have tightened the grip on the world's evaporating water supplies. It has been further observed that the strain on water resources increases dramatically as living standards improve, urban areas grow and consumption levels increase resulting in the demand for energy requirements.

### Looking ahead

In these circumstances, what is the real

remedy not only for our country but for the world over? In my opinion, we have totally failed to harness the energy of sea water to make safe and pure drinking water available. Millions and millions rupees are being spent for installing petroleum pipes under Bombay High to distant parts of the country to make available the petroleum products for commercial uses. The Government is an active partner in the said installation.

We already know that three - fourth of the earth's surface is covered with water. If sufficient attention is paid either globally or even at the national level to purify the sea water in order to take out its salty contents and then make it available through pipelines to the various parts of the country, problem could be considerably solved. However, the snag is that such an adventure is not regarded as commercial in nature and it produces no monetary revenue. In view of high population of the country, illiteracy and malnutrition, various declarations of the Supreme Court can only be regarded as pious.

The Court must look into this aspect of the matter for solving national water problem and could give directions to the Central Government to have a network of ordinary pipelines after purifying the sea water from its salty contents. In my opinion this is the lasting solution to the entire problem rather than taking sketchy steps directing various governments to take appropriate steps, as has been submitted above.

The UN Independent Expert on human rights obligations, water and sanitation, Ms Catarina de Albuquerque, in her report on sanitation to the UN Human Rights Council has reviewed the links between sanitation and a range of human rights, such as the rights to an adequate standard of living, to health, and to education. The report outlines a definition of sanitation in human rights terms which elaborates the content of human rights obligations related to sanitation.

While acknowledging the ongoing discussion about whether a 'right to sanitation' exists or not, she concludes that "only looking at sanitation through the lens of other human rights does not do justice to its special nature, and its importance for living a dignified life. The report has supported the current trend of recognising sanitation as a distinct right. It also calls for taking steps for applying the maximum of available resources, to the progressive realisation of economic, social and cultural rights as they relate to sanitation.

In her report she opines that the states must move as expeditiously and effectively as possible towards ensuring access to safe, affordable and acceptable sanitation for all, which provides privacy and dignity. This requires deliberate, concrete and targeted steps towards full realization, in particular with a view to creating an enabling environment for people to realize their rights related to sanitation. Hygiene promotion and education is a critical part of this obligation.

Understanding the human rights obligations related to sanitation requires a working definition of sanitation in human rights terms. This definition is drawn from elements related to sanitation as addressed under international human rights law. The report considers that this definition may evolve as the understanding of the human rights obligations related to sanitation continues to develop.

### What does right to sanitation entail?

Ensuring the right to sanitation will entail:

(a) the state to refrain from measures which threaten or deny individuals or communities existing access to sanitation; (b) states must also ensure that the management of human excreta does not negatively impact on human rights; (c) It is also the responsibility of the state to ensure that non state actors act in accordance with human rights obligations related to sanitation, including through the adoption of legislative and other measures to prevent the negative impact of non state actors on the enjoyment of sanitation; (e) when sanitation services are operated by a private provider, the State must establish an effective regulatory framework.

Sanitation facilities and services must be culturally acceptable. Personal sanitation is still a highly sensitive issue across regions and cultures and differing perspectives about which sanitation solutions are acceptable must be taken into account regarding design, positioning and conditions for use of sanitation facilities. In many cultures, to be acceptable, construction of toilets will need to ensure privacy. In most cultures, acceptability will require separate facilities for women and men in public places, and for girls and boys in schools. Women's toilets need to accommodate menstruation needs. Facilities will need to allow for culturally acceptable hygiene practices, such as hand washing and anal and genital cleansing.

### Recommendations

In her recommendations Albuquerque enlists the following points for consideration by various national governments:

- The vital importance of sanitation should be reflected in national and sub-national budgets, as well as in budgets for international assistance and cooperation;
- States must adopt a national action plan on sanitation, endorsed at the highest levels, which duly reflects the State's human rights obligations related to sanitation, ensuring participation of all



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concerned individuals, communities and groups. States should promote the participation of national human rights institutions and sanitation experts in these endeavours;

- States should assign clear institutional responsibilities for sanitation at all levels and avoid fragmentation. Where responsibilities are assigned to different ministries, departments or institutions, all efforts should be made to ensure adequate coordination;
- States should adopt appropriate policies to expand access to unserved and underserved areas, taking an integrated approach that addresses the underlying structural reasons for discrimination in access to sanitation;
- States should include sanitation in their national poverty reduction strategies and development plans.

In respect of international organisations and development agencies the report suggests:

- Development agencies should prioritize interventions in the sanitation sector and put the human rights obligations related to sanitation at the core of their projects. They should apply a human rights based approach to sanitation, meaning that every intervention in the sanitation sector should comply

with the human rights principles of non discrimination, participation, and accountability, and should be aimed at the fulfilment of the relevant human rights obligations related to sanitation.

- They should also empower local authorities and communities to comply with human rights obligations related to sanitation;
- United Nations agencies and international financial institutions should prioritise interventions on sanitation and put the human rights obligations related to sanitation at the centre of their projects;
- United Nations country teams should support governments in the preparation of national sanitation action plans, the revision of legislation, and other activities aimed at the fulfilment of their human rights obligations related to sanitation

This article is based on the report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Ms. Catarina de Albuquerque.

The full report can be accessed at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/10session/A.HRC.10.6.pdf>

WaterAid believes that water and sanitation are basic human rights and vital for the health, well being and dignity of poor people. But there is a vast majority of people in India who lack access to these basic services. One of the reasons for this is the prevalent gap between the service provider and the user in terms of information, participation and decision making. As a result projects and programmes tend to remain as noble intentions only.

#### Addressing root causes

Abhiyan, a Banda based NGO has been working in Banda and Chitrakoot districts of Uttar Pradesh since it was established in 1985 and has been a WaterAid India (WAI) partner since 2003. WAI's intervention with Abhiyan was based on service delivery of water and sanitation infrastructure for excluded communities through WAI and government support. However, the problem with this service delivery model was that though it improved people's access to water and sanitation facilities, it focussed only on service provisioning and there was a disconnect between the service provider and the user. It was also realised that for a sustained programme for ensuring basic services, one needs to be part of the development process. Keeping this in mind Abhiyan in its new project cycle beginning from 2008 shifted its focus from service delivery to a right based approach in water sanitation by adopting a few villages under Ambedkar Village Yojna.

The Ambedkar Village Yojna was initiated by the Uttar Pradesh government in 1991. It was launched with the aim of improving the life of rural people by making them a part of developmental process particularly in villages which had a significant dalit population. It also envisaged creating rural infrastructure including hygienic living through better housing, improved health services, family welfare, social security, land reforms, and employment that would help in the development of the villages and its people.

WaterAid India supported project is operational in 30 villages of Chitrakoot and Banda districts and aims to:

- Empower the communities by informing them of various government schemes, enabling them to make PRIs/government accountable for programmes implemented in water and sanitation;
- Enable communities to have safe access to water and sanitation by creating replicable models by leveraging government resources for water and sanitation;
- Create social institutions for the dalits to enable them to advocate for their rights and entitlements from the government.

#### Understanding existing conditions

The first step was to understand ground realities which would help in better planning of interventions in the villages. For this two measures were undertaken:

**1. Baseline survey:** A baseline survey was carried out as part of the project, the aim being to capture the current status with regard to water and sanitation availability and usage and hygiene practices being followed by the communities. Some of the major findings of the survey include:

- 86 per cent families use handpump as a source for drinking water;
- 46 per cent families spend more than 30 minutes, while 42 per cent families spend around an hour for collecting water;
- The percentage of people washing hands before eating/handling food is 23 per cent, after defecation is 30 per cent, after handling children's faeces is 7 per cent and after handling animal faces or soil is at 11 per cent;
- Only 4 per cent of the people are using latrines, the remaining 96 per cent go out for open defecation;
- 59 per cent households have no means to dispose waste water. Only 2 per cent households have soak pit/kitchen garden;
- 571 people have reported incidences



Abhiyan

of diarrhoea once or twice in the last six months while 70 people have had incidences of the disease more than twice in the last six months. Of all the people who have suffered from the disease only 67 per cent visit the hospital for treatment, 21 per cent of them use home remedies.

**2. Gap analysis:** To understand the benefits which have accrued to the communities due to the Ambedkar Yojna ever since it was initiated and the deficiencies in the programme implementation, a gap analysis was done in the project villages. The analysis covered 13 schemes, from village development to old age pension, employment related programme to scholarships for students. The gap analysis helped in identifying the main problems in implementation. This was mainly due to lack of awareness of the people about the Ambedkar Yojna and the provisions that they are entitled to in the programme.

would visit their village and made a visit a few days later, where he interacted with the villagers. The impact of the DM's visit was immediate with the following initiated thereafter:

- In Padri village the construction of a road has started along with installation of 2 new handpumps;
- The panchayat has assured support for subsidy for all families for construction of household latrines;
- In the nearby hamlets of Delora construction of household latrines was completed;
- People working under NREGA are now getting the minimum wage of Rs. 100 as stipulated by government.

This was followed by a awareness programme on the Ambedkar Yojna, water, sanitation, hygiene, Right to Information (RTI) and National Rural Employment Guarantee Act (NREGA). They also focussed on community empowerment through the formation of 30 Dalit organisations and 71 Self-Help Groups (SHGs); programmes of hygiene promotion in schools and households; sanitary protection of open well and restoration of water sources. Abhiyan has also organised an interface camp with the Minister for Rural Development, Mr. Daddu Prasad on the status of rural water and sanitation and implementation of government programmes. The next step of action would be to follow up on the report submitted and suggestions made by the minister.



Abhiyan

### **Assertive action**

The finding of the gap analysis was shared with the communities and also with government officials in the interface camp organised on 27 May 2009, where 200 representatives from 5 villages visited the District Magistrate's (DM) office and briefed him on the status of implementation of the Ambedkar Yojana in their villages. They also gave a petition depicting the status and problems in respect of individual latrines, water sources, ration cards and works under NREGA. The DM assured them that he

The journey for Abhiyan in making the people of the region realise and demand their rights has been mixed. Mr. Ashok Kumar, convener of Abhiyan says, "Through this approach people are not only getting empowered but are also able to access government schemes and make the service provider accountable." He asserts that the government officials are more responsive now and in the earlier approach of service delivery there was very little interaction with the government. He also points out that though the approach is more time consuming and challenging, the close involvement of people in realising their entitlements is something

# Water and Sanitation needs of People Living with HIV-AIDS

D. Johnson Rhenius Jeyaseelan, Regional Office North, WaterAid India

India has a population of over one billion, around half of whom are adults in the sexually active age group. The first AIDS case in India was detected in 1986 and since then, HIV infection has been reported in all states and union territories. The spread of HIV in India has been uneven. Certain places have been more affected than others. HIV epidemics are more severe in the southern half of the country and the far north-east. The highest HIV prevalence rates are found in Andhra Pradesh, Maharashtra, Tamil Nadu and Karnataka in the south; and Manipur and Nagaland in the north-east.

## Water and sanitation needs

People living with HIV AIDS (PLWHA) are discriminated against economically and socially. They undergo considerable psychologically stress. The immunocompromised status of PLWHA renders them more susceptible to opportunistic infections like diarrhoea, which is among the most common symptoms of HIV infection and is experienced by over 90 per cent of patients with AIDS. It becomes more frequent as immune deficiency progresses. Some of these diarrhoeal diseases are likely to be severe, recurrent and persistent, and associated with extra-intestinal disease. Also, people on antiretroviral treatment (ART) require greater amounts of water for drinking (at least 1.5 liters per day). A great irony exists in giving advanced, costly life-saving ART to patients with a glass of water that could infect them with a life-threatening illness. It is important to maximize the effectiveness of these medicines by using safe water for ingesting them, since a side effect of many ARV drugs is diarrhoea. Further, diarrheal illness in PLWHA can interfere with and compromise the absorption of these ART drugs and can even contribute to developing HIV strains that are resistant to antiviral agents.

According to a study by the Water and Sanitation Programme (WSP), evidence indicates that HIV affected households

require far greater than the 20 liters of water per capita daily. PLWHA experience illness and relative weakness requiring close access to water and sanitation facilities. Studies have shown that those traveling great distances to collect water will reduce intake of water and use less safe water sources and those without easy access to latrines will often resort to open defecation.

When PLWHA are discriminated by family and community at large they face greater challenges in access to water and sanitation. In a society where awareness on HIV-AIDS is low, coupled with prejudices, PLWHA are not allowed to use toilets at home and are forced to go for open defecation. They are not allowed access to common water points and in households, to a common water pot. With already failing health they have to walk greater distances to access water and also to defecate. When the status of PLWHA are not known to family and community at large, the frequent visits to hospitals or recurrent bouts of diarrhoea makes people suspicious towards them.

## Reaching out

In an effort to improve the quality of life of PLWHA, WaterAid India (WAI) in partnership with Uttar Pradesh State AIDS Control Society (UPSACS) and CREATE recently started a project titled 'Program on Arresting Opportunistic Infections for PLWHA'. This programme drew inspiration from a similar programme run by WaterAid in Ethiopia. The objectives of the WAI programme are to:

- Reduce barriers for improved access to sustainable water supply and sanitation and hygiene services through supporting locally appropriate, practical and effective solutions;
- Support NGOs working on HIV and AIDS, and networks of people living with HIV and AIDS;
- To establish linkages with water, sanitation, and hygiene implementing agencies;

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- Build capacity of volunteers, caregivers, and people living with HIV and AIDS through providing them appropriate information on water and sanitation related morbidity, and diarrhoea management techniques;
- Research and document the linkages and impact of raising awareness on special considerations in service delivery.

In a recent study undertaken as part of the project titled 'Survey on practices and coping strategies among PLWHA on Opportunistic Infections' following findings emerged which describe their health and low economic status:

- 42 per cent of respondents living in nuclear families face discrimination;
- 48 per cent of the respondents have a monthly income of less than Rs. 2,000;
- 44 per cent of respondents spend around Rs. 1,000 per month on health;
- 26 per cent of the respondents suffered from diarrhoea in last 15 days during the survey period; and,
- 49 per cent of the respondents have no household latrines and go out to far off places for defecation.
- Nearly 52 per cent of the respondents are unaware of opportunistic infections and its prevention; diarrhoea management and linkage of water, sanitation and hygiene to HIV-AIDS.

The project is being implemented in 14 districts of Uttar Pradesh through ART centres, District Level Networks (DLN) which are a group of NGOs running awareness centres called Drop-in Centres (DICs). The project also envisages working with Community Care Centres (CCCs) which are treatment centres for patients. The project in its first six months has been able to achieve the following:

- Institutions like DLN and DICs have

- access to safe water and sanitation services through the water sanitation interventions;
- Institutions of UPSACS and Target Intervention NGOs are realizing the linkages between water, sanitation, hygiene with PLWHA and are integrating these messages during group and individual counselling sessions and house visits to PLWHA.

During our visits to DLNs, a female outreach worker revealed (name not disclosed) "I am a PLWHA and working as a outreach worker in Maharajganj DIC. I lost my husband and two boys to HIV-AIDS. I have a girl child. I was not aware that my husband, children and I were HIV positive and only after I lost my child and husband did I go to the hospital and came to know that I am HIV positive. Immediately I was thrown away by my parents and in-laws and faced considerable discrimination in the village. Disgusted I left the village and settled in Maharajganj and started working here. Recently I got this hygiene kit and also came to know about key hygiene behaviours through the posters given and through discussions. At present I am aware of diarrhoea management and have found the hygiene kit very useful".

As part of the project an attempt is also being made with UPSACS to advocate with National Aids Control Organisation (NACO) ensure elements of water, sanitation and hygiene in the AIDS programmes.

In the project, slowly but surely the PLWHA are realising the benefits of safe water, sanitation and hygiene in their lives and are improving there practices. The project presently has employed five PLWHA as volunteers and is in the process of reaching out to PLWHA in these districts with water sanitation benefits.

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