



# Legal country mapping

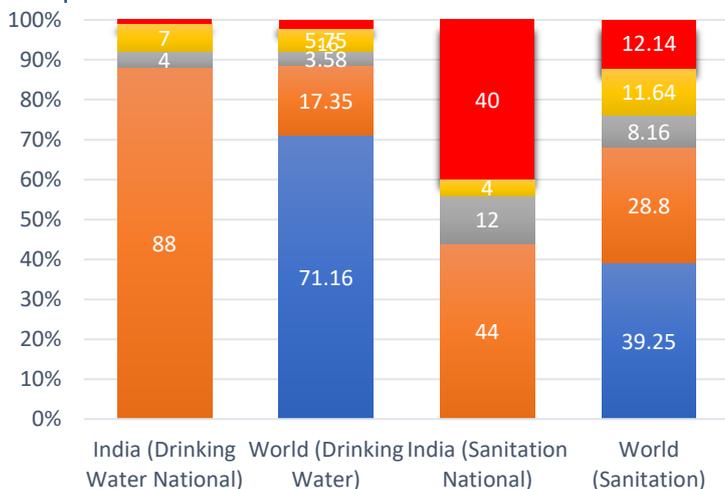
INDIA

7/2018

# India Country Mapping

## Water and Sanitation Status

JMP Update 2017



- Safely Managed
- Basic
- Limited
- Unimproved
- Surface Water/Open Defecation

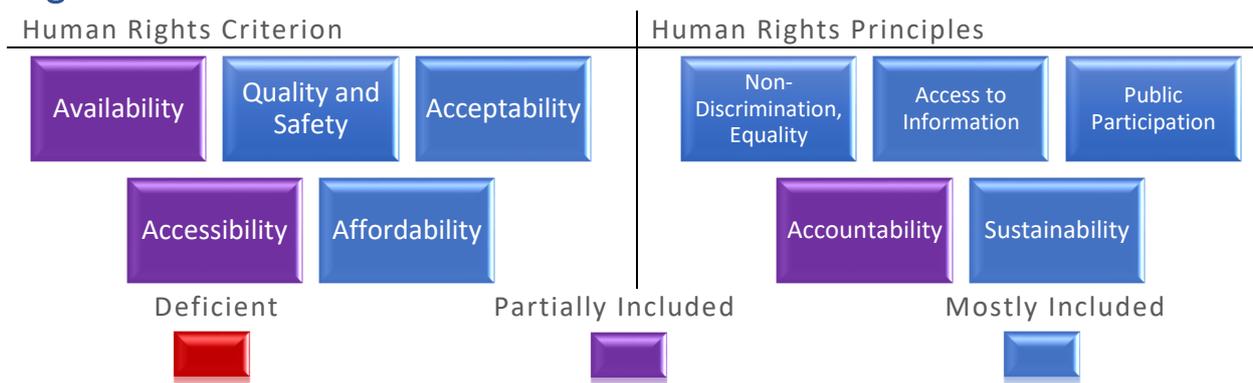
## General Legislation

Member of a regional integration organisation	Yes
State Organisation	Quasi-Federal
Relationship between International and National Law	Dualist
Supreme Law	The Constitution of India
Independent National Human Rights Institutions (NHRI)	Yes
National Institution possessing regulation-making authority	No
Popular consultation as part of governing/legislative process	Not Officially

## Water Governance

Right to Water or Sanitation mentioned in Constitution	No
A water code or a law specific to water resources	Yes
National Strategy, Policy, Action Plan etc. on Water and Sanitation	Yes
Transboundary Water Resources	Yes
Priorities in the allocation of water for different uses	Yes

## Legal Framework



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## CHAPTER 1: WATER GOVERNANCE OVERVIEW

### A. Preliminary questions:

#### **What type of State is the country? (e.g. Federal, Unitary, etc)**

The State is a quasi-federal Union with a bicameral legislature. The Constitution vests the majority of powers with the Central Government also referred to as the 'Union.'

#### **How is the government organised politically?**

The executive power of the Union is vested in the President (The Constitution of India, Article 53(1)). The President is elected by the Parliament and the elected members of the Legislative Assemblies of the States (The Constitution, Article 54). A Prime Minister and a Council of Ministers are appointed by the President.

The government at the state level mirrors that of the union level with the state executive power vested in the Governor, who is appointed by the President. The Governor in turn appoints a Chief Minister who heads the Council of Ministers and provides the Governor with advice. (The Constitution, Part VI, chapter II). From an administrative perspective, states are further divided into districts; some districts within a state may be grouped together to form divisions.

Each state has a Panchayat at the village (Gram), intermediate (block) and district (Zilla) levels (The Constitution, Part IX). The village level is the last tier of local government, followed by the intermediate level - which can only be designated as such if the state has a population exceeding 2 million (The Constitution, Article 243(b)2). The Panchayat representatives (councillors) are chosen by direct election. At least one-third of the seats of the Panchayats filled by direct election must be reserved for women and seats are reserved for scheduled castes and tribes in proportion to their population in the area. (The Constitution, Article 243 D, Q).

Municipalities are categorized into three types pursuant to factors such as population size and density, territorial area, and percentage of employment in non-agricultural activities: 1) Nager Panchayat for an area in transition from

rural to urban; 2) Municipal Council for a smaller urban area; and 3) Municipal Cooperation for a larger urban area. (The Constitution, Article 243 Q). State Legislatures have the authority to determine the type of municipality for a specified urban area. (The Constitution Amendment (74<sup>th</sup> Amendment) Act, 1992). In the same manner as Panchayats, representatives are elected by direct election and seats are reserved for scheduled castes and tribes, including minimally one third for women. (The Constitution, Article 243T).

#### **Division of government powers exist?**

At the Union level, the government is separated into three branches: executive, legislative and judicial. The legislative branch, embodied by the Parliament is established under the Constitution and consists of two Houses – the Council of States and the House of the People.

#### **Which institutions and levels of government have legislative powers?**

As a general rule, The Parliament is vested with the power to make laws for any part of the Indian territory, while State Legislatures may only make laws for their respective state (The Constitution, Part XI, Article 245). The seventh schedule of the Constitution lists specific matters over which Parliament and states shall have exclusive authority to make laws for their respective jurisdictions or in some cases with respect to concurrent subjects. (The Constitution, Seventh Schedule List I, II, III, Article 249 (1)). It should be noted that although a matter may be specified on the state list, where the territory is not included in a state, Parliament has the power to make laws with respect to the subject. (The Constitution, 246(4)).

The Constitution further establishes a Supreme Court for the Union (The Constitution, Article 124). The rulings of the Supreme Court are binding on all courts in India (The Constitution, Article 141).

#### **Who has the power to ratify treaties?**

In India, all three branches of the State, i.e., the Legislature, Executive and the Judiciary, in effect, hold the power to ratify a treaty under different circumstances.

**Is there popular consultation as part of governing/legislative process?**

There is no direct inclusion of popular consultation in the legislative process. However, it has been acknowledged that individuals and groups should be given full and equal access to information (held by public authorities or third parties) concerning water services and the environment (General Comment No. 15, para. 48). In this regard, the Right to Information Act, 2005 (RTI Act), extends to the whole of India except Jammu and Kashmir and seeks to afford every citizen with the right to access information held by public authorities. (Preamble, The Right to Information Act). Consequently, authorities have the responsibility to record and maintain appropriate records and expeditiously handle any requests for information. (The Right to Information Act, 2005, Art.4, 7).

Public participation has also increasingly become a formalised part of national water policy, yet in some instances voluntary participation has been weak with a lack of appropriate incentives, financial support, and misunderstanding of project objectives forming barriers (V. Dhanya and G. Renoy, 2017).

**Has the country established a basin management agency? Is it autonomous?**

Yes, there are various basin management agencies at the national and regional level. However, these are not autonomous. For example, the National Mission for Clean Ganga (NMCG) was registered as a society on 12th August 2011 under the Societies Registration Act 1860. It served as the implementation arm of National Ganga River Basin Authority (NGRBA), which was constituted under the provisions of the Environment (Protection) Act (EPA), 1986.

The NGRBA was however dissolved on 7th October 2016, consequent to constitution of National Council for Rejuvenation, Protection and Management of River Ganga (referred to as The National Ganga Council). The establishment of agencies are not provided for or regulated by any laws except those under the Environment (Protection) Act.

**Does the country have transboundary water resources?**

Yes, India shares a number of transboundary

rivers with Pakistan, China, Nepal, Bhutan and Bangladesh.

**Where transboundary water resources exist, is there an established international institution for basin management? Does it have any responsibility in relation to drinking water?**

The closest form of an established international institution for 'basin management' is the operationalization of fixed allocation provisions, which sets the amount of water that each user can withdraw, as contemplated within the 1960 Indus Treaty, concluded between India and Pakistan. This has primarily been the product of political negotiations. (See, 1960 Indus Treaty).

B. Is the country a member of a regional integration organisation?

**Which countries form part of this organisation?**

Yes, India is part of the South Asian Association for Regional Cooperation (SAARC). The countries that constitute SAARC are Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka.

India has also signed the 2004 Social Charter, a non-binding instrument in which the State Parties to SAARC agreed that safe drinking water and sanitation should be guaranteed in legislative, executive and administrative provisions (South Asian Association for Regional Cooperation, Social Charter, 2004, Article III).

**Are the decisions of the organisation binding for the members?**

The decisions of the organization are not binding on its members but do have persuasive value and must be considered in the formulation of their policies.

**What is the mandate of the organisation?**

The mandate of the organization is to promote regional cooperation amongst the members to accelerate economic growth, social progress and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realize their full potential.

**Does the regional organisation have the authority to regulate or make decisions which affect water and sanitation?**

The organization has an influential power over the decisions affecting water and sanitation. However, it does not have the explicit authority to regulate or make decisions which affect water and sanitation.

C. Water governance and administration:

**What is the structure of the government water administration (provide relevant organizational charts whenever available) and what power, role and responsibilities does the Government have at each level?**

**At national/federal level**

The Constitution encapsulates the responsibilities of the Government in the context of water within the 7<sup>th</sup> Schedule, which specifies that these either fall within the ambit of the Union, the States, or both. List I declares that the Union shall have domain over the regulation and development of inter-state rivers and river valleys where Parliament has declared by law that such is in the public interest (The Constitution, Seventh Schedule). Furthermore, Parliament shall have the authority to adjudicate by law disputes or complaints with respect to the use, distribution, or control of the waters of, or in, any inter-state river or river valley (The Constitution, Article 262 (1)).

Although the Constitution does not provide the Union with explicit responsibilities with respect to water and sanitation (notwithstanding development and disputes concerning inter-state rivers or river valleys), the Executive Cabinet (Council of Ministers) is comprised of ministries directly related to water and sanitation.

**At the intermediate level (state, river basin, other)** The Union Executive performs a predominantly policy formulation role in the context of water governance. According to the Constitution, States have control of “. . . water supplies, irrigation and canals, drainage and embankments, water storage and water power.” (Constitution Seventh Schedule List II (17); Article 262). Notably, the Constitution stipulates that

States may delegate powers and authority in the context of water governance to Panchayats and Municipalities, which would function as institutions of self-government. To this effect, it provides a non-exhaustive list of subject-matters over which such authority may be exercised (The Constitution, Article 243 (G)(b), (W)). The Panchayats are vested with the authority over Drinking water, minor irrigation, water management and watershed development; whereas water supply for domestic, industrial and commercial purposes forms part of the list for municipalities. (The Constitution Eleventh Schedule (11), Twelfth Schedule).

**At the local level**

As encapsulated within the 73<sup>rd</sup> and 74<sup>th</sup> Amendments, the Constitution requires States to constitute Panchayats and Municipalities in accordance with particular specifications, and empower these bodies with the powers and responsibilities required to function as effective self-governing institutions. However, the laws within different States provide different mechanisms through which the responsibilities with respect to drinking water and sanitation may be delegated to the sub-local governing bodies.

For example, in some instances States maintain overarching control over the management of water supply as in the State of Gujarat which established a Water Supply and Sewerage Board, responsible for the water supply of the urban local bodies of the State excluding larger municipalities. Nonetheless, the Board still maintains the authority to take over any existing water supply and sewerage services of local bodies for operation. (Gujarat Water Supply and Sewerage Board Act, 1978, Art.21). Generally, the responsibility for water supply in major cities is through the municipal governing body often referred to as Municipal Corporations.

**Which government ministries/agencies are directly or indirectly involved in governance of water and sanitation?**

The following ministries/ agencies are directly or indirectly involved in the governance of water and sanitation:

**The Ministry of Water Resources, River Development, and Ganga River Rejuvenation**

(MoWR) is the preeminent authority for India's water resources. Its primary responsibilities include formulating the national water policy and programmes. Under the umbrella of the MoWR are various organisations, most notably the Central Water Commission (CWC) and the Central Ground Water Board (CGWB). The CWC is responsible for initiating and coordinating schemes, with the State Governments concerned, for the control, conservation and utilization of water resources within the respective States. (MOWR, *Central Water Commission New Delhi*).

**The Ministry of Housing and Urban Affairs (MoHUA)** is the national government authority in charge of formulating policy and support programming in coordination with other ministries and state governments in relation to urban employment, poverty, and housing. (MoHUA, *Profile*). Its mandate also covers water supply, sewage, drainage and sanitation within urban areas as well as international cooperation and technical assistance in this context. (MoHUA *Government of India (Allocation of Business) Rules 1961*). Notably, the ministry also undertakes activities focused on supporting marginalized groups and women.

**The Ministry of Rural Development** oversees development and welfare schemes in rural areas of India. Its mandate involves enhancing livelihoods opportunities, providing a social safety net and facilitating infrastructure growth in rural India (Ministry of Rural Development, *About the Ministry*). The 'Swajal Dhara' initiative launched by this Ministry seeks to empower Panchayats to formulate, implement, operate and maintain drinking water.

**The Ministry of Environment, Forest, and Climate Change** oversees the implementation of the water pollution (prevention and control act) discussed in more detail in the following section.

**The Food Safety and Standard Authority** comprises of representatives from 7 ministries of the Central Government and is responsible for ensuring the safety standards of packaged drinking water (The Food Safety and Standards Act, 2006, Article 5).

### **Which agency is responsible for drinking water? What are its responsibilities?**

The following ministries/ agencies are responsible for drinking water:

The **Central Ground Water Board (CGWB)** is responsible for the development and dissemination of technologies as well as the monitoring and implementation of national policies for the scientific and sustainable development and management of ground water resources. This includes the exploration, assessment, conservation, augmentation, protection from pollution, and distribution, based on principles of economic and ecological efficiency and equity. (MoWR, *Central Ground Water Board*). CGWB operates throughout the country with 18 regional offices. Its activities include water quality analysis, ground water pollution & modelling studies, water supply investigations, artificial recharge studies and monitoring ground water observation wells. These activities are quite significant as 85% of rural drinking water supply emanates from ground water. (National Data Centre, *Central Ground Water Board*)

**The Ministry of Drinking Water & Sanitation (MoDWS)** institutes the National Rural Drinking Water Programme which is a comprehensive multi-dimensional scheme. Its chief activities include utilising technological advances to secure water quality and allocation of funds from the Union government for advancing drinking water and sanitation coverage in rural areas. MoDWS also leads the Swachh Bharat Mission launched in 2014 seeking to attain universal sanitation coverage and achieve an open-defecation free (ODF) India by 2019. (MoDWS *Swachh Bharat Mission*)

### **Which agency is responsible for sanitation? What are its responsibilities?**

**The Ministry of Drinking Water & Sanitation (MoDWS)** is responsible for the establishment of improved sanitation facilities within rural areas. The MoDWS seeks to provide support to local communities to autonomously manage their water sources and sanitation as well as undertake:

- 
- The planning, implementation and monitoring of centrally sponsored programmes and schemes for safe drinking water and sanitation in rural areas;
  - Support research & development initiatives, information, education, and communication and human resource development activities for all stakeholders in the drinking water and sanitation sector;
  - Build partnerships and synergize efforts with other sector partners, UN organisations and bilateral agencies, NGOs, R&D institutions and civil society;
  - Assist the State in resource mobilisation from multilateral and bilateral agencies through the government of India;
  - Provide technical support to States through seminars, interactions and the documentation of best practices and innovations;
  - Provide inputs to other departments/Ministries for the formulation of policies impacting water and sanitation issues;
  - Recognize and award panchayats and organisations for their work in facilitating rural sanitation.

## CHAPTER 2: INTERNATIONAL AND REGIONAL TREATIES

1. Has the country ratified the following international or regional treaties and declarations?  
Please insert the date of the signature/ratification/accession.
2. Has the country made any declaration or reservation to the following instruments?

### A. Regional Multilateral/Bilateral treaties

*Please list all multilateral and bilateral treaties related to water to which the country has adhered to.*

*Table 1. Regional multilateral and bilateral treaties*

Instruments	Participating States	Entry into force
<b>Indus Waters Treaty</b>	India, Pakistan	1st April 1960
<b>India-Nepal Cooperation</b>		
Mahakali Treaty (for the Pancheshwar Multipurpose Project)	India, Nepal	February, 1996
SaptaKosi High Dam Project and SUN Kosi storage cum diversion scheme	India, Nepal	June 2004- February 2017
Kamla and Bagmati Multipurpose Projects		
<b>India-Bangladesh Cooperation -Joint Rivers Commission</b>	India, Bangladesh	Since 1972
Treaty Between The Government Of The People's Republic Of Bangladesh And The Government Of The Republic Of India On Sharing Of The Ganga/Ganges Waters At Farakka	India, Bangladesh	12 December, 1996
<b>India-China Cooperation</b>		
MOU upon provision of Hydrological Information of the River	India, China	5 June 2008
MOU on Hydrological Data Sharing on River Sutlej / Langqen Zangbo	India, China	April 2005
Expert Level Mechanism	India, China	November 2006
<b>India-Bhutan Cooperation-Joint Technical Team on Flood Management</b>	India, Bhutan	April 2005

## B. Human Rights Conventions

Table 2. International binding instruments

Instruments	Signature	Ratification
<p>International Covenant on Civil and Political Rights (1966)  <u>Reservation/Declaration:</u> Article 1: The Government of the Republic of India declares that the words 'the right of self-determination' appearing in [this article] apply only to the peoples under foreign domination and that these words do not apply to sovereign independent States or to a section of a people or nation--which is the essence of national integrity.</p> <p>Article 9: The Government of the Republic of India takes the position that the provisions of the article shall be so applied as to be in consonance with the provisions of clauses (3) to (7) of article 22 of the Constitution of India. Further under the Indian Legal System, there is no enforceable right to compensation for persons claiming to be victims of unlawful arrest or detention against the State.</p> <p>Article 13: The Government of the Republic of India reserves its right to apply its law relating to foreigners.</p> <p><u>Declarations:</u></p> <p>Articles 12, 19(3), 21, 22: The Government of the Republic of India declares that the provisions of the said [article] shall be so applied as to be in conformity with the provisions of article 19 of the Constitution of India.</p>		10 April 1979
<p>Optional Protocol to the International Covenant on Civil and Political Rights (1966)  <u>Reservation/Declaration:</u></p>		
<p>International Covenant on Economic, Social and Cultural Rights (1966)  <u>Reservation/Declaration:</u> India interprets the right of self-determination as applying "only to the peoples under foreign domination"[3] and not to apply to peoples within sovereign nation-states. It also interprets the limitation of rights clause and the rights of equal opportunity in the workplace within the context of its constitution.</p>		10 April 1979
<p>Optional protocol to the International Covenant on Economic, Social and Cultural Rights (2008)  <u>Reservation/Declaration:</u></p>		

Instruments	Signature	Ratification
<p data-bbox="201 271 943 338">Convention on the Elimination of All Forms of Discrimination against Women (1979)</p> <p data-bbox="201 371 1054 568"><u>Reservation/Declaration:</u> i) With regard to articles 5 (a) and 16 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any Community without its initiative and consent.</p> <p data-bbox="201 607 1054 804">"ii) With regard to article 16 (2) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that though in principle it fully supports the principle of compulsory registration of marriages, it is not practical in a vast country like India with its variety of customs, religions and level of literacy.</p> <p data-bbox="201 842 352 871"><u>Reservation:</u></p> <p data-bbox="201 909 1054 1039">With regard to article 29 of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that it does not consider itself bound by paragraph 1 of this article.</p>	<p data-bbox="1082 271 1166 338">30 July 1980</p>	<p data-bbox="1235 271 1374 300">9 July 1993</p>

Instruments	Signature	Ratification
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999) <u>Reservation/Declaration:</u>		
Convention on the Rights of the Child (1989) <u>Declaration:</u> While fully subscribing to the objectives and purposes of the Convention, realising that certain of the rights of child, namely those pertaining to the economic, social and cultural rights can only be progressively implemented in the developing countries, subject to the extent of available resources and within the framework of international co-operation; recognising that the child has to be protected from exploitation of all forms including economic exploitation; noting that for several reasons children of different ages do work in India; having prescribed minimum ages for employment in hazardous occupations and in certain other areas; having made regulatory provisions regarding hours and conditions of employment; and being aware that it is not practical immediately to prescribe minimum ages for admission to each and every area of employment in India - the Government of India undertakes to take measures to progressively implement the provisions of article 32, particularly paragraph 2 (a), in accordance with its national legislation and relevant international instruments to which it is a State Party.		11 December 1992
The Convention on the Rights of Persons with Disabilities (2006) <u>Reservation/Declaration:</u>	30 March 2007	1 October 2007
Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006) <u>Reservation/Declaration:</u>		
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) <u>Reservation/Declaration:</u>	14 October 1997	
Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998) <u>Reservation/Declaration:</u>		
Geneva Convention (III) relative to the Treatment of Prisoners of War (1949)	12 August 1949	9 November 1950
Geneva Convention (IV) relative to the protection of Civilian Persons in Time of War (1949)	12 August 1949	9 November 1950
Protocol Additional (I) to the Geneva Conventions relating to the Protection of Victims of International Armed Conflict (1977)		
Protocol Additional (II) to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts (1977)		

<b>Instruments</b>	<b>Signature</b>	<b>Ratification</b>
Convention on the Law of the Non-navigational Uses of International Watercourses (1997) <u>Reservation/Declaration:</u>		

Table 3. ILO conventions

<b>Instruments</b>	<b>Signature</b>	<b>Ratification</b>
ILO Forced Labour Convention, No. 29 (1930)		18 May 2000
ILO Recruiting of Indigenous Workers Convention, No. 50 (1936) (shelved convention)		
ILO Food and Catering (Ships' Crews) Convention, No. 68 (1946) (instrument to be revised)		
ILO Plantations Convention, No. 110 (1958)		
ILO Hygiene (Commerce and Offices) Convention, No. 120 (1964)		
ILO Occupational Safety and Health (Dock Work) Convention, No. 152 (1979)		
ILO Convention No. 161 concerning Occupational Health Services (1985)		
ILO Safety and Health in Construction Convention, No. 167 (1988)		
ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989)		
ILO Work in Fishing Convention, No. 188 (2007)		

## CHAPTER 3: DOMESTIC LEGISLATION ON WATER

## A. Water law

**Is the right to water or the right to sanitation mentioned in the Constitution?**

No, the Constitution does not explicitly mention the Rights to water and Sanitation.

**Does the Constitution otherwise reference water and sanitation?**

Article 21 of the Constitution guarantees the Right to Life which has been progressively interpreted by the courts in India (Supreme Court and High Court) to include the rights to water and sanitation within the overarching right to a clean environment.

**Is there a water code or a law specific to water resources? Please specify.**

The legal framework with respect to water governance in India has predominantly been left to the States as the subject falls within List II of the seventh schedule to the Constitution of India. However, legislation with respect to water pollution and the restoration of water sources was enacted by the Parliament in 1974 in furtherance of the commitments made at the Stockholm Conference. The Water (Prevention and Control of Pollution) Act and the subsequent enforcement text - The Water (Prevention and Control of Pollution) Rules, 1975 form the foundations of water legislation within India.

**Is there national strategy / policy, action plan or similar document on water?**

No, there is no legislation that encapsulates the national strategy on water. It is an executive act under the Ministry of Water Resources. The objectives, strategies, plan of action, timelines, monitoring and evaluation criteria are all laid down in a National Water Mission formulated by the Ministry.

**Are there any other major regulations, decrees, orders, circulars, or similar official documents related to water (such as pricing, water policing, utility easements, public domain occupation...etc.) related to the rights to water and sanitation.**

The following legislations are related to water:

**The Easement Act 1882-** It vests with the State the absolute right over all rivers and lakes within which they are located. The landowner however, has the right over the groundwater.

**The Water Cess Act, 1977-** It postulates the levying of a cess on water consumed by certain industries. These industries are required to affix a meter to measure the quantity of water being used by them. The rate of cess is related to the standard of pollution caused by the discharge of effluents and does not depend on the quantity of water used.

## B. Extraction and/or use of water

**Does the legislation regulate the right to abstract water? (surface, groundwater, etc.)?**

There is no legislation specifically pertaining to the right to abstract water. The Central Ground Water Board under the Ministry of Water Resources publishes a manual on the Artificial Recharge of Groundwater.

The Central Government has published three model bills on ground water, in 2005, 2011, and the latest currently in draft in 2016. The 2011 Groundwater Model Bill recognises the “common pool” nature of groundwater, which has an intricate relationship with rainwater and surface water (through natural recharge) (Groundwater Model Bill, 2011, Preamble). However, only a few states and union territories have enacted ground water legislation.

The most recent attempt of the Central Government to formulate an updated framework for the abstraction of ground water is the Model Bill for the Conservation, Protection, Regulation and Management of Groundwater, 2016 (Model Bill 2016). This bill recognizes “the

serious groundwater crisis” and has explicitly expanded the Model Bill 2011’s section pertaining to the “Right to Water”, which in its present articulation encompasses the “Right to Water for Life.” The Bill promulgates the obligation of States to ensure the provision of safe water even where such service has been delegated to a private agency. Employing a comprehensive approach, the Model Bill 2016 includes provisions which cover issues of non-discrimination and sustainability.

The most comprehensive water legislation to be contemplated in India is the National Water Framework Bill, currently in draft form. If broadly enacted, this could potentially be a landmark legislation as it proposes a national legal framework on water, encompassing *principles for the protection, conservation, regulation and management of water*. The *Right to Water for Life* has also been encapsulated within the draft legislation and includes the State’s responsibility to ensure that every person’s right to safe water is explicitly confirmed.

**Does the legislation distinguish between the extraction of drinking water and water for other uses?**

No, the prevailing legislative framework does not make this distinction. However, the Supreme Court has created a hierarchy, prioritizing drinking water above water used for other purposes. (*Delhi Water Supply & Sewage Disposal Undertaking vs. State of Haryana & Ors.*, 29 February 199, 1996 SCC (2) 572).

**Is the right to use water connected to land ownership?**

Under the Indian Easement Act, 1882 the proprietary rights over rivers and lakes belong to the state within which they are located. Additionally, landowners are vested with rights over the ground water.

**Are permits/licenses required for water use? (e.g. domestic, agricultural, industrial)?**

Yes, permits are required for the extraction of water by energized means. The Central Ground Water Authority (constituted by the Government of India under Section 3 (3) of the Environment

(Protection) Act (EPA) of 1986, in pursuance of the Order of the Hon’ble Supreme Court of India) regulates ground water development and management in the country.

The requisite permit is issued subsequent to an application, made in the form of a No Objection Certificate. The CGWA has issued guidelines for the grant of No Objection Certificates for the withdrawal of groundwater. Specific restrictions with respect to such extraction include the following:

- Industries requiring ground water up to 25 m<sup>3</sup> /day located in over exploited areas; up to 50 m<sup>3</sup> /day for critical areas; and upto 100 m<sup>3</sup> /day in semi-critical areas are exempted from obtaining NOC for ground water abstraction from CGWA.
- The responsibility of verifying the actual requirement and withdrawal is vested with the State Pollution Control Boards.
- It should also be mandatory for such industries to undertake Rain Water Harvesting to the extent possible and the enforcement of the same is vested with the State Pollution Control Boards.
- Industries located in Safe category areas are required to obtain an NOC from the CGWA if the ground water abstraction by the industry exceeds 1000 m<sup>3</sup> /day for hard rock areas and 2000 m<sup>3</sup>/day for alluvial areas. (The above does not include industries which use water as a raw material, such as packaged drinking water industries, distilleries and breweries).

Subsequent to the grant of an NOC, a random site inspection of selected industries is carried out by the CGWA. In case the industry/project is found to have defaulted in adhering to the stipulated terms and conditions, the NOC is cancelled. The current practice of issuing a No Objection Certificate to all industries / projects falling within safe category areas is to be continued with.

**Can permits/licenses be suspended? Under what circumstances?**

Licenses may be suspended in instances where

the ground water level is critically low. In instances of low ground water levels caused due to severe droughts extraction limits may be imposed under the licenses or permits provided.

Licenses may also be suspended or revoked if the industry or project in question is found to be defaulting in adhering to specific terms and conditions.

**Can water abstraction licenses be transferred? Is transferability subject to restrictions?**

No, water abstraction licenses/permits or the No Objection Certificates granted cannot be transferred.

**Are there priorities in the allocation of water for different uses?**

The national water policy prioritises access to drinking water. The CGWA categorises areas according to the availability of groundwater in relation to prevalent trend with respect to the

declining water level. These categories are designated as 'Safe', 'Semi-Critical', 'Critical', and 'Over-exploited'. The designation awarded to a particular area is taken into consideration for the NOC application.

The CGWA has identified 162 critical or overexploited areas in 12 states and territories for the control, regulation and development of ground water resources. These areas are officially classified by CGWA as *Notified* and new ground water structures are prohibited in these areas. Moreover, the NOCs granted to abstract ground water through energised means in these designated areas is only granted for drinking water (Central Groundwater Authority, Guidelines/Criteria for the evaluation of proposals/requests for ground water abstraction).

## CHAPTER 4. THE HUMAN RIGHTS TO WATER AND SANITATION:

## A. Availability and accessibility

**Does the law ensure that a minimum essential level of water is available to all?**

While a minimum water supply is targeted in the national policy, no law at the national level in India specifies the minimum amount of water to be provided for personal and domestic needs. Further, there is no binding national law which prioritises domestic use of water over other uses. (National Rural Drinking Water Program Strategic Plan 2011-2022)

**What are the standards on the amount of water to be made available/is there any guidance in the law in this respect?**

There are no minimum standards explicitly stated within the relevant legislation, specifically pertaining to the amount of water that is to be made available.

**Does the law ensure continuous supply of water for all?**

There is no law that ensures the continuous supply of water for all. The National Rural Drinking Water Program Strategic Plan 2011-2022 seeks to ensure basic levels of 40 litres per person a day with a graduated target being set to reach 70 litres per person a day by 2022.

**Does the law prioritize water for domestic uses over other uses?**

There is no binding national law which prioritises domestic use of water over other uses. However, the Supreme Court has ruled that water for drinking purposes is the primary use of water and thus has priority over other uses such as irrigation (Delhi Water Supply & Sewage Disposal Undertaking vs. State of Haryana & Ors., 29 February 1999, 1996 SCC (2) 572).

**What are the grounds for disconnecting, interrupting or altering water supply and sanitation services (e.g., authorities may alter water supply in case of droughts or emergencies, in which cases are disconnections possible...)?**

No Indian city receives piped water 24 hours a day, 7 days a week. Piped water is never distributed for more than a few hours per day,

regardless of the quantity available. Raw sewage often overflows into open drains. Less than 50% urban population has access to piped water. The Non-Revenue Water (NRW: due to leakages, unauthorized connections, billing and collection inefficiencies, etc.) is huge, estimated between 40-70% of the water distributed. Operations and maintenance cost recovery through user charges is hardly 30-40%. Most urban operations survive on large operating subsidies and capital grants. (World Bank)

**What are the procedural standards/criteria for permitting interruption, disconnection or alteration of water supply and sanitation services?**

There are no specific procedural standards/criteria for the interruption, disconnection or alteration of water supply and sanitation services.

**Are alternative ways of water supply and sanitation services provided for in case of alteration of supply and/or service?**

There are no provisions for alternate water and sanitation services in case of alterations of supplies or services.

**Does the law provide guidance on: the number of water outlets?** There is no specification on the number of water outlets within the legislative framework.

**The safety, distance and time from a dwelling or structure to reach water outlet or sanitation facilities (e.g., laws that specify water outlets must be available within a certain distance from a school or household)?** No

**Technical safety of water outlets or sanitation facilities (e.g. law requiring that certain standards are applied in the constitution of those facilities or of buildings)?** No

**Is there provision in the law for availability and accessibility of water and sanitation facilities in**

**non-domestic places such as schools, hospitals, work places, prisons, refugee camps, etc. No**

## B. Quality and safety

**Are there parameters of quality and safety for drinking water established under law?**

There are no legal parameters on the quality and safety of drinking water.

**The State Pollution Control Board (SPCB)** lays down, modifies or annuls standards for sewage and trade effluents as well as the quality of receiving waters.

In the face of increased demand for packaged drinking water, BIS instituted a standard for packaged drinking water for consumption and/or for sale which is not natural mineral water. Aiming for the provision of safe quality water, the standard limits the presence of certain chemical elements such as arsenic in line with WHO standards, as well as microbes and details other quality specifications. (BIS IS: 14543). Transport, storage and water processing are also stipulated under the standard. Although BIS standards are generally non-binding, the specification for packaged drinking water is mandatory.

**Is monitoring of drinking water quality or wastewater required by law? If so, which actor is required to monitor it and how often (according to the law)?**

85% of the rural drinking water supply emanates from ground water. The Central Ground Water Board (CGWB) seeks to develop and disseminate technologies and monitor the implementation of national policies for the scientific and sustainable development and management of India's ground water resources, including their exploration, assessment, conservation, augmentation, protection from pollution, and distribution, based on principles of economic and ecological efficiency and equity. The CGWB operates throughout the country with 18 regional offices. It monitors the water quality through regular analysis, modelling studies, water supply investigations, artificial recharge studies and

periodic ground water observation. (MoWR, *Central Ground Water Board*)

The Central and State Pollution Control Boards, have established an expansive national water quality monitoring network which is comprised of 2500 stations in 28 States and 6 Union Territories.

The Water Quality Assessment Authority (WQAA) was instituted by the MoEFC in furtherance of its powers under the Environment Protection Act. Its mandate includes the direction of agencies to standardise water quality monitoring methods, ensure proper treatment of wastewater to restore the water quality of surface and ground waters, undertake research and development related to water quality management and promote the recycling and reuse of treated wastewater. (The Water Quality Assessment Authority). State level committees under the WQAA are present in most states to foster coordination between the Central and State government efforts. The Secretariat of the WQAA falls under MoWR.

In 2005, the MoEFC issued an order - the Uniform Protocol on Water Quality Monitoring (Uniform Protocol 2005), in furtherance of its powers conferred by the Environmental Protection Act (EPA). The purpose of this order was to enhance the assessment and monitoring of water quality and to maintain uniformity in the monitoring procedure. The Uniform Protocol 2005 is applicable to all organisations monitoring surface and ground water quality.

The provisions of the protocol stipulate the frequency of monitoring, procedure of sampling, parameters for analysis, analytical techniques, quality assurance and quality control system, among others for both surface and ground water. (Uniform Protocol on Water Quality Monitoring Order, 2005, Ministry of Environment and Forests, S.O. 2151, New Delhi 17 June 2005).

In 2013 the MoDWS issued the Uniform Drinking Water Quality Monitoring Protocol, 2013 (Uniform Protocol 2013), calling for the Uniform Protocol 2005 to be revised to encompass particular standards and requirements for

drinking water which were absent in the 2005 Protocol. The Uniform Protocol 2013 stipulates specific standards to assist members of the water sector (supply engineers, policy makers, laboratory engineers, etc) to improve the quality of drinking water testing to ensure a safer supply of drinking water. (Uniform Drinking Water Quality Monitoring Protocol, Ministry of Drinking Water and Sanitation, February 2013).

**Do laws/regulations include guidance on the safe construction of water and sanitation Infrastructure (e.g. to ensure no contact with excreta, ventilation, respect construction guidelines)?**

No, the relevant legislations do not include uniform guidance on the safe construction of water and sanitation infrastructure. The EPA however gives the Central Government the authority to take all measures deemed necessary to protect and improve the environment and prevent as well as control environmental pollution. (Environmental Protection Act, Article 3). This authority includes the ability to enact standards for the quality of the environment and the issuance of penalties for contravention of the provisions of the EPA, subject to imprisonment. (Environmental Protection Act, Article 15).

**Do laws/regulations include requirements or guidance on safe emptying of latrines as well as safe treatment and disposal of treated sludge?**

Yes, the relevant laws and regulations include requirements or guidance on the safe emptying of latrines and the treatment as well as disposal of sludge.

The Municipal Law, the Environment (Protection) Act, 1986 and the Water (Prevention and Control of Pollution) Act, 1974 provide an overarching framework for the control of effluent, sewage and septage discharge. In addition to this, the Solid Waste Management (SWM) Rules, 2016 under the Environment (Protection) Act regulate the safe disposal of post-processed residual faecal sludge and septage to prevent the

contamination of ground water, surface water and ambient air.

The SWM Rules 2016 also regulate the disposal and treatment of faecal sludge and septage, before or after processing, at landfills and for use as compost. The provisions of the National Building Code of India published by the Bureau of Indian Standards (BIS), as applicable for Septic tanks, soak pits, cess pools, leach pits, drainage fields etc. also need to be examined and taken into account while framing the FSSM policy.

The Model Building Bye-Laws (MBBLs), 2016 framed by the Town and Country Planning Organisation are also relevant in this context. The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 instituted a ban on dry latrines, i.e., latrines with no water-seal or flushing mechanism, as well as a ban on the employment of persons manually carrying human excreta.

This was supplemented in 2013 with the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 according to which "hazardous cleaning" in relation to sewers and septic tanks was also banned. The law stipulates that manual cleaning of sewers and septic tanks, if necessary, may be carried out only in extensively controlled situations, with adequate safety precautions, and in accordance with the postulated rules and protocols. (National Policy on Faecal Sludge and Septage Management FSSM, 2017).

**Do laws/regulations establish requirements on household water treatment and storage (e.g. quality requirement with respect to water containers, rainwater harvesting limitations, etc.)?**

There are no laws or regulations in this context. Across India groundwater sourced via handpumps is the predominant source of drinking water. However, due to the severe bacterial contamination of the drinking water within these handpumps and the irregularity in their placement and use, it has been difficult to ensure the quality of household water treatment as well as monitor the households' appreciation of the dangers of contaminated water and the

ways to prevent contamination (Mehul Jain, Status of Household Water Treatment in 45 Countries 2009).

### C. Water pollution control

**Are there legislative provisions concerning waste disposal activities? Which authorities are responsible for monitoring to determine if waste has caused pollution of bodies of water?**

The Water (Prevention and Control of Pollution) Act, 1974 (1974 Water Act) regulates water pollution while also maintaining or restoring the *wholesomeness* of water. It established the Central Pollution Control Board (CPCB) and called for states to establish their own State Pollution Control Board (SPCB) to monitor the level of water pollution from industrial and other wastes. (R.C Das and D.K. Behera, Environmental Science: Principles and Practice, Prentice-Hall of India Private Limited, New Delhi 2008, p 129).

The Water (Prevention and Control of Pollution) Cess Act, 1977 (Cess Act) imposes taxes on industry and local authorities for the pollution of water sources.

The tax is calculated in relation to the amount of water consumed and the purpose of its use. The industry includes any operations, processes, or treatment and disposal systems, which consume water or give rise to sewage effluents or trade effluents. The local authority, in this context, is defined as a municipal corporation, a municipal council or any other body, entrusted with the duty of supplying water under the law or under which it is constituted. (The Water (prevention and Control of Pollution) Cess Act, Article 2(a); and The Water (prevention and Control of Pollution) Cess (Amendment) Act, 2003, article 2).

Adherence to the 1977 Water Pollution Act is an integral factor in the amount assessed, with compliant actors paying the normal assessment rate and violators paying the maximum rate. Additionally, industries which engage in processing wherein the water is polluted with

toxic and/or not easily biodegradable substances are levied at the highest rate. Notably, water which is consumed for domestic purposes is levied the lowest tax rate. (The Water (prevention and control of pollution) Cess (Amendment) Act, 2003 Article 6).

**Is there legislation which regulates the contamination of groundwater?**

The contamination of groundwater is regulated by the Central and State Pollution Control Boards, instituted in furtherance of The Water (Prevention and Control of Pollution) Act, 1974 (1974 Water Act).

The Central and State Pollution Control Boards have established an expansive national water quality monitoring network which is comprised of 2500 stations in 28 States and 6 Union Territories. The monitoring is set to be executed on monthly or quarterly basis for surface waters and on half yearly basis for ground water.

The Central Ground Water Authority (CGWA) categorises areas according to their groundwater availability in relation to the presence of a significant long-term water level decline trend: Safe, Semi-Critical, Critical, and Over-exploited.

**Is permission required to discharge effluents? What are the criteria used for considering applications and granting permits?**

There is no system of granting specific permits for the discharge of effluents. The State Pollution Control Board (SPCB) lays down, modifies or annuls standards for sewage effluents and for the quality of receiving waters. They also inspect works and plants engaged in the treatment and discharge of sewage and effluents and review plans for the disposal of sewage or trade effluents [the 1974 Water Act].

The Standards for Effluent Discharge Regulations postulated under The Environment Protection Act 2002 promulgate that the parameters for the effluents discharged into a watercourse or a waterbody do not exceed the permissible limits (of both composition and concentration) set out within the Second Schedule. Additionally, the

discharge of effluents is not permitted into a waterbody or watercourse used or earmarked to be used for potable water supply. (Standards for Effluent Discharge Regulations *General Notice No.44.of 2003*, THE ENVIRONMENT PROTECTION ACT 2002 Regulations made by the Minister under sections 39 and 96 of the Environment Protection Act 2002).

**Can waste discharge permits be lost/suspended/modified during their lifespan? Under what circumstances? Is compensation payable?**

N/A

**Are instances of pollution of water sources subject to penalties / fines? Which institution is in charge of the administration of the penalties?**

Yes, the pollution of water sources is subject to penalties and fines. The National Green Tribunal oversees the administration of the penalties. It has the power to execute its orders or decisions directly in a manner similar to the civil court; alternatively, it can transfer the case to a civil court.(The National Green Tribunal Act, 2010, Art. 25(1) and (2)). The NGT can institute non-compliance penalties of fines or imprisonment. (The National Green Tribunal Act, 2010, Art. 26).

#### D. Affordability

**How does the law address affordability of water supply and sanitation services?**

Tariffs are set by the water regulatory authorities within individual states.

**What mechanisms must be established by law to ensure affordability of water and sanitation services?**

The National policy recommends setting water prices according to volumetric use instead of fixed rates (for the recovery of costs and to encourage conservation). However, it postulates differential pricing for domestic water & sanitation. The Mumbai High Court affirmed the right to water for illegal slum dwellers, asserting

that the Municipal Corporation could charge them a higher rate for water supply than the rates of authorised dwellings. (Pani Haq Saiti & Ors. Vs. Brihan Mumbai Municipal Corporation & Ors., 2014 High Court of Mumbai).

**How are tariffs established under law and what is the process for updating these tariffs?**

Tariffs are set by individual states and typically by the water regulatory authorities, in accordance with the National Policy. The State has the discretion to update the tariffs.

**Does the tariff vary depending on the regions/circumstances?**

Yes.

**Which actor is responsible for and involved in setting and/or approving tariffs for water supply and sanitation services?**

The Water Regulatory Authorities within the various states are responsible for setting Tariffs within the individual states.

**Does the law allow disconnection from water supply and sanitation services for non-payment? What procedures must be followed in such cases prior to disconnecting the supply and service?**

The regulations vary across States. The disconnection of water supply for the non-payment of tariffs is undertaken by the Metropolitan Water Supply and Sewerage Board within each State, using its own discretion.

#### E. Acceptability

**Is there provision in the law or contracts with service providers that relate to the need to take into account cultural and social dimensions of acceptability (e.g. colour or odour of water, or the positioning of a facility)?**

There are no specific provisions within the contracts with service providers that take these factors into account. However, the overarching legal framework accommodates specific issues that address particular dimensions of acceptability. Despite various legal protections having been put in place through legislation and

policy, discriminatory practices still prevail; which influences the acceptability of particular water sources. Areas predominantly occupied by the Dalit community are frequently subject to deprivation of water supply due to the non-functioning infrastructure; especially where pipelines are left faulty and unrepaired. This results in these communities being forced to buy water from tankers or use unsanitary water from local surface sources. However, some states have acted to redress this. For example, pursuant to the Gujarat State's Scheduled Caste Sub Plan a specific provision of the budget has been set aside for the provision of drinking water facilities. (Government of Gujarat Scheduled Castes Sub Plan 2016-2017).

This Supreme Court in the case of State of Karnataka v. Ingale upheld the conviction of individuals who were obstructing the victims from accessing water from a bore well because they were Untouchable and thought to be responsible for polluting the water. This conviction was based on Constitutional grounds of non-discrimination and unlawfulness of Untouchability among others.

**Is there provision in the law or contracts with service providers that relate to the need to ensure dignity and privacy (e.g.in work places, but also in the design of shared sanitation facilities for certain communities)?**

A major concern that the law has sought to address with respect to the dignity of service providers involves manual scavenging, a practice which has been made illegal by the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act (PEMSR Act 2013) along with a Supreme Court order to that effect. Moreover, Article 42 of the Constitution provides an entitlement to just and humane working conditions. Despite the overarching legal framework in place, manual scavenging continues and persons who work as manual scavengers are predominately members of Scheduled Castes.

The dire working conditions that manual scavengers are subjected to have resulted in numerous deaths caused by asphyxia. In many cases the victims were employed by government

entities. The international community has taken notice of the issue and in 2007 the CERD Committee expressed its concern of the alarming number of Dalits employed as manual scavengers.

Despite the law and enforcement mechanisms regarding the rights of Dalits being clear, continued work on public attitudes is necessary to prevent the violation of these rights and to ensure accountability in the event of violations.

**F. Non-discrimination, equality and universal access**

**Is there any legislation about the prohibition of direct and indirect discrimination (on all grounds) and promotion of equality in accessing water and sanitation services?**

The Constitution explicitly abolishes the practice of Untouchability, sanctioning punishment for anyone acting in contravention of law relating to such discrimination. (The Constitution, Article 17). Not only are persons to refrain from these discriminatory practices, Article 46 of the Constitution calls upon States to protect weaker sections of society through promotion of their economic and educational interests, particularly Scheduled Castes and Tribes. In so doing, States seek to protect them from social injustice and all forms of exploitation. (The Constitution, Article 17).

The historical discrimination faced by certain Scheduled Castes has hindered their right of access to water and sanitation. This is aggravated by the fact that 3/4th of the Scheduled Caste population live in rural areas and thus face disproportionate challenges in accessing clean water supply and sanitation.( Scheduled Caste Sub Plan Guidelines for Implementation (2006), Planning Commission, Page 2).

Moreover, the subject of Schedules Casts and Schedule Tribes has been encapsulated within List III of the Constitution, over which the Central Government and the States have concurrent authority. A number of affirmative action

measures have been put in place to address the challenges faced by individuals belonging to Scheduled Castes including the reservation of seats in the national and state legislative assemblies. (The Constitution, Article 330 and 332). The Parliament passed the Untouchability (Offences Act), 1955 (amended and renamed in 1976 as the Protection of Civil Rights Act, 1955 (Civil Rights Act)) which sought to eliminate and punish the practice of “Untouchability” and is applicable to the whole of India. The legislation encapsulates specific provisions addressing the access to water and sanitation and includes punishment in prison, by fine or both in cases of discrimination pertaining to:

*“(iv) the use of, or access to, any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public, or persons professing the same religion or belonging to the same religious denomination or any section thereof, as such person, have a right to use or have access to”[.]* (Act No. 22 of 1955, Protection of Civil Rights Act, 1955 [as amended], 1 June 1955, Art. 4).

The Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (PoA Act) was enacted by Parliament to address acts of discrimination and provide compensation and rehabilitation for the victims of these crimes. Special Courts for the trial of offenses under the PoA Act were also implemented by States in each district to facilitate speedy trials.

While India has not ratified the ILO Indigenous and Tribal Peoples Convention, 1989 (Convention 169), it has ratified the Indigenous and Tribal Populations Convention, 1957 (Convention 107) which addresses the needs of indigenous peoples who because they are not fully integrated in the national community are hindered from enjoying the same social, economic, and cultural rights as other segments of society. The Convention requires States to be afforded with the primary responsibility to develop and co-ordinate systematic action for the protection of these populations and enable

their progressive integration into the life of their respective countries. (Indigenous and Tribal Peoples Convention, 1957, Article 2(1)). Additionally, India voted in favour of the UN Declaration on the Rights of Indigenous Peoples (UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples : resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/29).

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA) has attempted to fulfil the obligations of the Indian government in addressing such concerns.

The National Commission for Women (NCW), established pursuant to the National Commission for Women Act, 1990 seeks to advise the Central Government on policies, reviews and legal safeguards for women. Their mandate also includes submitting periodic reports to the government on issues of discrimination, safety and access to water and sanitation. (National Commission for Women Act, Art 10(m).)

**Are there any specific provisions that address that seek to ensure (physical) access to water and sanitation services for persons with disability, children or the elderly?**

While there is no explicit mention of non-discrimination on account of disability, The Constitution does encapsulate the duty of the State to provide public assistance for the disabled. (The Constitution, Article 41).

In addition to this, The Rights of Persons with Disabilities Act, 2014 contemplates the right of disabled persons to access water and sanitation through the overarching responsibility of the state to safeguard the rights of persons with disabilities to an adequate standard of living, enabling them to live independently or within a community, giving due consideration to age, gender and socio-economic status. This specifically includes access to safe drinking water and appropriate and accessible sanitation facilities, especially within urban slums and rural areas.

The Department of Empowerment of Persons with Disabilities (under the Ministry of Social Justice and Empowerment) serves as the focal point for the implementation of the Central Government's policies and programmes nationally, while relief for the disabled forms part of the list of subjects under the states' responsibility in the Constitution. (Constitution of India, Seventh Schedule, List II, Art. 9.) In 2015 the MoDWS launched the *Handbook on Accessible Household Sanitation for Persons with Disabilities* with an aim to support unhindered access to sanitation for the disabled, elderly, and pregnant women by providing guidelines as to principles of accessibility and appropriate designs for planners and implementers (Ministry of Drinking Water and Sanitation, *Handbook on Accessible Household Sanitation for Persons with Disabilities*, December 2015).

## G. Right to information

**Is there any specific legislation about the right to seek, receive and impart information held by public authorities? Does the law expressly set out the right to seek, receive and impart information on water related issues?**

The Right to Information Act, 2005 (RTI Act), extends to the whole of India except Jammu and Kashmir and seeks to afford every citizen the right to access information held by public authorities with a view to encouraging transparency and accountability in government. (The Right to Information Act, 2005, preamble). Authorities have the responsibility to record and maintain appropriate records and any request for information should be handled expeditiously. (The Right to Information Act, 2005, Art. 4, Art. 7)

**Does the right to information require the payment of a fee? Is there a provision on the affordability of such fee?**

There is no fee.

**Are there any exceptions with regard to who or what type of water and environment related information held by public authorities can be accessed?**

the RTI Act, 2005, Section 8(1) lists all of the exemptions: These are (a) information, disclosure of which would prejudicially affect the security, sovereignty and integrity of India; (b) information which may constitute contempt of court; (c) information that would cause a breach of privilege of Parliament or the State Legislature; (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information; (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information; (f) information received in confidence from foreign government; (g) information, the disclosure of which would endanger the life or physical safety of any person; (h) information which would impede the process of investigation or apprehension or prosecution of offenders; (i) cabinet papers including records of deliberations, which come under the specified exemptions; (j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy.

**Which institutions are required by law to make information on water public? Does the law reference only the right to access information or also the obligation to make public such information on water related issues (e.g., are institutions obligated to provide information only upon demand, or are they obligated to publish or make available information at certain periodic intervals, on the occurrence of certain circumstances, etc.)?**

The Ministry of Drinking Water and Sanitation is required to make certain specific information with respect to water, public; in furtherance of the obligation of proactive disclosure. Such information includes the particulars of the organization, its functions and duties, the powers and duties of its officers and employees, the procedure followed in the decision making process, including the channels of supervision and accountability, the norms set for the

discharge of its functions, the rules, regulations, instructions, manuals and records used by the employees within the organization for discharging functions, the statement of the categories of the documents held by it or under its control, the particulars of any arrangements that exist for consultation with, or representation by the members of the public, in relation to the formulation of the policy or its implementation, the statements of boards, councils, committees and other bodies consisting of two or more persons constituted by it. Additionally, the information as to whether such meetings are open or accessible to the public, the directory of officers and employees, the monthly remuneration received by the officers and employees, including the system of compensation provided for in the regulations, budget allocations to various agencies indicating the amount and details of beneficiaries of such programs, the particulars of the recipients, concessions, permits, authorizations granted, details of information available or held, reduced in electronic form, particulars of facilities made available to citizens and the names and designations as well as other particulars of the Central Public Information Officer.

**What are the requirements listed in the law in relation to the language, locations, format, timing and means used for providing water related information to the public? How does the law ensure that information is made available to all including to minorities?**

There are no specific legal requirements. However, the ministry has an accessibility statement that seeks to ensure the availability of information to all demographics. The statement promulgates that the Ministry is committed to ensure that the website of Ministry of Drinking Water and Sanitation is accessible to all users irrespective of device in use, technology or ability. It has been built, with an aim, to provide maximum accessibility and usability to its visitors. As a result, this website can be viewed from a variety of devices. There has also been an additional effort to ensure that the information available on the website is accessible to people with disabilities. For example, a user with visual disability can access this website using assistive technologies, such as screen readers and

magnifiers. They also aim to be standards compliant and follow principles of usability and universal design, which would help all visitors of this website.

**Are there any legal provisions requiring certain authorities to educate the population on water related issues?**

Article 46 of the Constitution calls upon States to protect weaker sections of society through promotion of their economic and educational interests, particularly Scheduled Castes and Tribes. In so doing, States must protect them from social injustice and all forms of exploitation. (The Constitution, Article 17).

**Are the legal requirements concerning informing the population about regulations, restrictions, prohibitions and discontinuations in water services? Does the law require that information be made available about the existence of complaint mechanisms for water supply and sanitation services to users of such services?**

The Right to Information Act, 2005 contemplates a responsive mechanism whereby information with respect to regulations, restrictions, prohibitions and the discontinuation of water and sanitation services can be sought from the relevant authority. However, there is no mandatory legal obligation to inform the public.

**Are there any requirements in relation to access to information in contracts with water and sanitation operators?**

Such information can be accessed through filing a Right to Information Application.

## H. Public participation

### **Is there a law which addresses public participation?**

The Eleventh and twelfth Schedule of the Constitution as well as Article 243 (W) and Article 243 (G) specifically provide for a participatory form of water governance at the local level. The implementation of these provisions however requires their incorporation within the state legislation. In the context of environmental legislation, the provisions with respect to Environmental Impact Assessment specifically require public participation. National water policies however directly refer to participation, more than water legislation.

The 1987 water policy emphasised the participation of farmers in irrigation (National Water Policy, 1987, s. 12), the second policy of 2002 included the participation of beneficiaries and other stakeholders in project planning as well as private sector participation in the water sector. (National Water Policy, 2012, s. 1(3) and 12(3)). The 2012 water policy conceptualises participation as a key component of good governance and emphasises the importance of community participation in the management of water projects and services. (National Water Policy, 2012, s. 1(3) and 12(3))

### **What are the criteria listed in the law in relation to participation in water-related issues (e.g. allocated time to provide comments, invitation to public hearings, etc.)?**

There is no singular law that governs public participation. It is entirely encapsulated within policy recommendations. The provisions with respect to the criteria for participation vary significantly across states and depend on the nature of the implementation of the national policy in place by the respective States.

### **Do the contracts between governmental authorities and operators of water and sanitation services impose upon the operators an obligation to ensure or provide for public participation at any levels at which the**

### **applicable services are delivered?**

There is no obligation upon the operators of water and sanitation services to provide for public participation.

### **Is the establishment of regional or local associations or other groupings of water users provided for and regulated by laws or regulations? How do they interact with or connect into other agencies or regulators?**

At a regional and local level, the Participatory Irrigation Model has been encapsulated within the legislations of a number of Indian states through the institution of Water User Associations (WUA). The WUA Acts provides for the participation of farmers in the management of irrigation systems. However, this form of participation is narrower and tends to be limited to specific tasks in the context of the management of existing schemes. For example, in Maharashtra, the two main objectives of WUAs are to ensure the equitable, efficient and economical distribution and utilization of water to optimize agricultural production. (Maharashtra Management of Irrigation Systems by Farmers Act 2005, S. 4(1)).

## I. Sustainability

### **How does legislation ensure that water and sanitation services are delivered in a sustainable manner, considering the availability of water resources, competing demands and generally the needs of present and future generations?**

In 2015, India joined the international community in acceding to the UN 2030 Agenda for Sustainable Development, which includes a dedicated provision on water and sanitation, (Sustainable Development Goal 6). Accordingly, India has made a commitment to ensure the availability and sustainable management of water and sanitation for all.

In furtherance of its obligations, the Indian Government enacted a Model Bill for the Conservation, Protection, Regulation and Management of Groundwater, 2016 (Model Bill 2016). The Bill covered issues of non-

discrimination, sustainability, and a fully integrated approach with surface water regulation, amongst others.

The Ministry of Drinking Water & Sanitation (MoDWS) undertakes as its mission to “ensure that all rural households have access to and use of safe and sustainable drinking water and improved sanitation facilities by providing support to States in their endeavour to provide these basic facilities and services” (MoDWS).

The Ministry of Rural Development oversees the development of welfare schemes in rural areas with a view to eradicating poverty and achieving sustainable growth through increasing livelihoods opportunities, providing a social safety net and developing infrastructure growth. (Ministry of Rural Development).

**How does the legislation ensure that delivery of water and sanitation services is economically sustainable, with sufficient expenditure for operation and maintenance?**

The Central Ground Water Board (CGWB) attempts to encourage the development and dissemination of technologies to monitor and implement national policies for the scientific and sustainable development and management of India's ground water resources - including their exploration, assessment, conservation, augmentation, protection from pollution, and distribution, based on principles of economic and ecological efficiency and equity. (Central Ground Water Board)

## CHAPTER 5: JUDICIAL SYSTEM

## A. Preliminary questions

**What is the relationship between international law and national law (i.e. is the state a monist or dualist system--how is international law interpreted in relation with domestic law)?**

The Indian Legal System is dualist in nature, requiring International Law to be specifically incorporated within the domestic legal order. Article 253 of the Constitution reflects this by vesting the Parliament with the power to pass specific laws implementing international legal instruments.

The Supreme Court has contextually characterized the principle of dualism. In the 1997 case of *Vishaka v. State of Rajasthan*, the Court noted that international law complements domestic law in instances of a legal void when the former does not conflict with the latter. In the subsequent 2014 case of the *National Legal Services Authority v. Union of India*, the Court noted that international law is directly applicable when it does not conflict with domestic laws. In the 1996 case of *Vellore Citizens' Welfare Forum v. Union of India*, the Court noted that customary international law is also directly applicable when it does not conflict with domestic laws.

**What is the hierarchical structure of the legal system?**

The Indian Judicial System is organised in a pyramidal structure with the Supreme Court at the top, followed by High Courts located within every State of the Union. (The Constitution, Article 214; Rana, *Judicial System in India* 2014). Below the High Court within each State, are the subordinate courts are found in each state. (The Constitution, Article 215).

**Has the State ratified the relevant international conventions establishing regional or international complaint mechanisms?**

No, India does not subject itself to complaint mechanisms at the regional or international level. Additionally, as India applies the dualist

theory of international law, Courts are not obliged to automatically apply norms arising from international treaties in their judgements. Consequently, norms established at international level, may not be applied directly by the existing national mechanisms within India.

B. Remedies and complaint procedures/accountability

**Are there remedies provided by law to file complaints or other ways of accessing justice in reference to water and sanitation? Who may file them? Are the decisions appealable?**

According to the 7<sup>th</sup> Schedule of the Constitution, the responsibilities with respect to the human rights to water and sanitation either fall within the domain of the Union, the States, or both. List I stipulates that the Union shall have domain over the regulation and development of inter-state rivers and river valleys in instances where the Parliament has declared by law that such is in the public interest. (The Constitution of India, Seventh Schedule, Article 56). Additionally, Parliament shall have the authority to adjudicate by law disputes or complaints with respect to the use, distribution, or control of the waters of, or in, any inter-state river or river valley. (The Constitution of India, Article 262 (1))

**Are such complaint procedures required to be provided in conformity with human rights principles (such as non-discrimination, equity)?**

Yes, such complaint procedures are required to be in conformity with human rights principles. A complaint filed through a Public Interest Litigation can be granted different reliefs to protect public interest or to redress or prevent a public harm. Such reliefs include: issuing interim measures to protect public interest until a final decision is reached, appointing commissioners or committees to resolve the matter, or passing final judiciary orders mandating actions to be fulfilled by a certain deadline.

The National Human Rights Commission (NHRC) also has a separate complaint procedure and has received many complaints in the context of the rights to water and sanitation. It has intervened specifically on the right to safe drinking water. A

relevant example is the case of *“Malfunctioning in water supply scheme in Ludhiana” (Case No 509/19/10/2014)*. The case dealt with the inability of the Punjab Water Supply and Sanitation Department to provide chlorinated water and an over-head tank for water storage, despite it being an important investment to increase water supply. The NHRC requested a report from the Chief Secretary of the Government of Punjab, however, no document on the outcome of the case has been found. (WaterLex, “National Human Rights Institutions and Water Governance, Compilation of Good Practices”, 2014, at 93).

**Does the law provide for financial assistance for legal counsel in cases concerning water and sanitation?**

No, there is no specific legal provision for financial assistance for legal counsel in the context of the rights to water and sanitation. However, Public Interest Litigation has been contemplated as a flexible, affordable and accessible procedure, instituted to protect public interests. (The Constitution, Article 39A, S.P Gupta v. The Union of India AIR 1982 SC 149, D.K. Basau vs. West Bengal, CRL No 592 of 1987, Hindustan Times vs Central Pollution Board, 2000 SCC 587).

In order to ensure the economic accessibility of such a procedure, court fees are kept low (50 rupees per respondent), and the case can be initiated by the Court or by any other private party proving that the petition is filed *bona fide*, for a public interest, to redress a public injury, or to enforce a public duty, and not for a frivolous, personal, or private matter. This opens the possibility for a higher level of involvement for NGOs and other stakeholders who would otherwise be excluded from the process.

**Who monitors the administrative level bodies and/or service providers?**

The Central Water Commission and The Central Ground Water Board monitor the administrative level bodies as well as the service providers.

The MoEFC, in furtherance of its powers under the EPA, created the Water Quality Assessment Authority (WQAA). The mandate of the WQAA is to direct agencies to standardise water quality monitoring methods, ensure the proper

treatment of wastewater, restore the water quality of surface and ground waters, undertake research and development related to water quality management and promote the recycling and reuse of treated wastewater. (The Water Quality Assessment Authority - Functions and Present Status).

**Is there a possibility to appeal against the decisions of service providers? With whom would such an appeal be lodged, and under which conditions is such an appeal possible?**

Yes, such decisions can be appealed at The National Green Tribunal (NGT). The NGT addresses civil cases in the first instance and on an appeal involving substantial environmental issues, or when an environmental question arises from implementing several acts that include: The Water (Prevention and Control of Pollution) Act of 1974, the Water (Prevention and Control of Pollution) Cess Act of 1977, or the Environment (Protection) Act of 1986. (Article 14 (1), Schedule I, National Green Tribunal Act, 2010).

In order to settle such disputes, the Tribunal may issue orders to provide relief or compensation to victims of pollution, to provide restitution for damaged properties or to provide restitution of the environment in affected areas. Persons aggrieved by a decision of the NGT are enabled to file an appeal before the Supreme Court. (The National Green Tribunal Act, 2010, Article 22). The NGT is composed of a principal bench in New Delhi, and four zonal benches covering the East, West North and South zones. (National Green Tribunal).

**What remedies are available at an administrative level?**

N/A

**Who monitors these administrative level bodies?**

N/A

**Are such administrative bodies legally independent entities according to the law?**

N/A

**Is there any evidence (e.g., case law) that courts in the country have (or may have) jurisdiction to enforce any economic, social or cultural rights?**

The Supreme Court has dealt with the enforcement of economic, social or cultural rights in the following cases:

foreseeable outcomes with, among others, the current situation of water scarcity in India, the duty of the Government, and the right to water under Article 21 of the Constitution.

The Supreme Court confirmed the applicability of the Principle of Resettlement; mainly that oustees need to be resettled (in this case because of the construction of a dam), their opinion should be taken into account, and they should be rehabilitated according to their preferences. Furthermore, according to the Principle of Resettlement, they should not be forced to accept monetary compensation and that they should not be resettled as a homogenous group in a village exclusively set up for each group. The Court further recognised the direct application of specific provisions of international instruments such as Article 12 of the ILO Convention, specifying that resettlement should only be carried out in the necessary cases for the general interest.

**6. *Environment and Consumer Protection Foundation vs. Delhi Administration and Others (2012)***

The Supreme Court dealt with a writ petition presented to it in 2004, requesting it to issue directions to improve the conditions of public schools run by local authorities. The Right of Children and Compulsory Education Act of 2009, states that schools must have separate toilets for boys and girls and safe and adequate drinking water facilities. The Court ordered states and union territories to provide basic infrastructure such as toilets and drinking water facilities. Furthermore, it held that the lack of drinking water and proper sanitation facilities violated Article 21A of the Constitution, encapsulating the right of children to free and compulsory education.

**Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to water and sanitation? Is there any existing case law?**

Yes

**Provide a brief overview of the judicial procedure involving a human rights violation case**

A human rights violation case can be brought before the subordinate courts within each State. (The Constitution, Article 215). It can then be brought forth on appeal to The High Court within the State and subsequently to the Supreme Court.

The Supreme Court can also directly hear cases of human rights violations through the procedures elaborated upon below.

**Is there a Constitutional /Supreme Court? Cases are heard as the last appeal or may cases be referred directly?**

The Supreme Court of India is the highest Court in the Indian Judicial System. Its decisions are binding on all lower courts and its decrees or orders are enforceable throughout the territory of India (The Constitution, Article 141). According to Article 129 of the Constitution "The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself." The Indian legislation grants the Supreme Court with the following jurisdictions:

a) Original Jurisdiction:

According to Article 131 of the Indian Constitution, the Supreme Court has jurisdiction, excluding any other court, on the disputes involving states and the Government of India.

b) Advisory Jurisdiction:

When a question of law or fact of public importance has arisen, or is likely to arise, the President has the power to refer the question to the Court for its consideration. After hearing the question the Court may report to the President on its opinion.

c) Appellate Jurisdiction:

The Supreme Court has the jurisdiction to receive appeals from judgements, decrees final orders or other proceedings from High Courts on civil, criminal or other proceedings, when a High Court certifies that they involve a substantial question of law or an interpretation of the Constitution.

d) Writ jurisdiction:

The writ jurisdiction of the Supreme Court is encapsulated within Part III of the Constitution. Article 32 of the Indian Constitution postulates the right of individual citizens to move the Supreme Court for the enforcement of fundamental rights. This vests the Supreme Court with the power to issue writs necessary to protect fundamental rights.

These writs include habeas corpus (court order requesting the appearance of a detainee before the court in order to determine the lawfulness its detention), mandamus (court order issued by the Supreme Court or High Courts to compel, private or public entities or persons, to do or to refrain from doing something), prohibition (court order directed to inferior courts to interrupt its proceedings due to excess of jurisdiction or because of acting against the rules of natural justice), quo warranto (prerogative writ that aims to restrain a person to hold a public office to which he/she is not entitled) and certiorari (court order issued by the Supreme Court or a High Court nullifying a court order issued by an inferior court, tribunal or quasi-judicial authority).

e) Review Jurisdiction:

The Supreme Court has the power to review any decision or order it has delivered.

High Courts also have the power, within the territory of their jurisdiction, to issue necessary writs or orders to protect or enforce the fundamental rights contained in the Constitution or for other purposes. (The Constitution, Article 226).

The Human Rights Protection Act provides States with the possibility of creating Human Rights Courts to ensure speedy trials for human rights offences, under the condition that no Court of Session has been assigned such jurisdiction. These courts have a designated Public Prosecutor for conducting human rights violations cases. (Articles 30 and 31, The Protection of Human Rights Act 1993, amended in 2006).

**Have domestic courts applied international human rights law in past cases or have they referred to decisions from international human rights bodies?**

The Supreme Court has interpreted the principle of dualism. In the 1997 case of *Vishaka v. State of Rajasthan*, the Court stated that international law complements domestic law in the case of a legal void when the first does not conflict with the latter. Subsequently, in the 2014 case of the *National Legal Services Authority v. Union of India* the Court stated that international law is directly applicable when it does not conflict with domestic laws. Furthermore, the Court stated in the 1996 case of *Vellore Citizens' Welfare Forum v. Union of India*, that customary international law is also directly applicable when it does not conflict with domestic laws.

**Are court proceedings conducted in only one principal language, or are they also conducted in local languages, including minority and indigenous languages? Does the law require that information is made available in local languages?**

The Court proceedings are conducted in the official working languages of the Court or in English. Each state has a different official language. This does not however include minority and indigenous languages. The law does not require the information to be made available in all the local languages.

**Have domestic courts applied (or referenced) recommendations of national human rights institutions?**

Yes, domestic courts have referenced recommendations and principles of international human rights institutions as long as they are not in conflict with domestic laws.

C. National Human Rights Institutions

**Is there an independent national human rights institution?**

The Indian National Human Rights Commission (NHRC) is a body created by the Union

Government under the Human Rights Protection Act of 1993 (Amended in 2006).

Along with the NHRC the State Human Rights Commissions (SHRCs), the National Commission for Minorities, the National Commission for the Scheduled Castes, the National Commission for the Scheduled Tribes and the National Commission for Women are also engaged in the protection of human rights at the local and regional level. The members of both the NHRC and SHRCs are appointed by their corresponding Government.

**Does the mandate of the national human rights institution cover the entire human rights framework, including economic, social and cultural rights?**

Yes, economic, social and cultural rights are included within the mandate of national human rights institutions. For example in the *Human Right to Adequate Housing and Land* report, the NHRC affirmed that the right to water is a prerequisite for the realisation of the right to adequate housing. Subsequent to the “National Workshop on Manual Scavenging and Sanitation”, the Commission issued recommendations on manual scavenging and sanitation, advocating for the adoption of appropriate technology and methodologies to address water scarcity. (WaterLex, “*National Human Rights Institutions and Water Governance, Compilation of Good Practices*”, 2014, at 91 and 92).

**Is the national human rights institution authorized to receive and adjudicate complaints of violations of human right to water and sanitation right?**

The Commissions can approach the Supreme Court or High Courts to obtain the necessary writs, orders and directions, or it can provide recommendations to the Government or pertinent authority to grant interim measures it considers necessary to protect the victim as required (Article 18(b)(c) of the Human Rights protection Act 1993 (Amended in 2006). Furthermore, all Commissions are required to present annual or special reports on urgent or important matters to the corresponding governments and legislatures. (Articles 20 and 28

of the Human Rights protection Act 1993 (Amended in 2006)).

The NHRC has intervened specially on the right to safe drinking water in the case of “*Malfunctioning in water supply scheme in Ludhiana*” (Case N<sup>o</sup> 509/19/10/2014).

**Does the national human rights institution have a legal basis or authority to initiate an action to address systemic human rights violations?**

Within their jurisdiction, the NHRC and the SHRCs have the authority to conduct inquiries either on their own discretion or based on the petition of a victim asserting human rights violations. The NHRC may also intervene in a process before a court involving any allegation of human rights violations; visit public facilities where people are detained or lodged; review safeguards to protect human rights or factors undermining their enjoyment, recommend effective measures; undertake and promote research on human rights, spread human rights literacy and promote awareness of the safeguards available to protect human rights.

**What type of remedies does the national human rights institution have the authority to impose?**

When exercising its inquiry function, where the NHRC and the SHRCs have found human rights violations, they can recommend to the corresponding governments or authorities, to compensate their victims for their damages, prosecute the culprits of the violations, or any other action it deems necessary (Article 18(a) of the Human Rights protection Act 1993 (Amended in 2006). The Commissions may send a copy its recommendations to the complainant and to the concerned authorities, giving the latter a deadline of one month to provide a report of the measures undertaken in relation to such recommendations (Article 18(d)(e)(f) of the Human Rights protection Act 1993).

**Is the institution allowed to initiate investigations/hearings?**

Within their jurisdiction, the NHRC and the SHRCs have the authority to initiate inquiries and investigations. The NHRC may also intervene in a process before a court involving any allegation of human rights violations.

**Does the national human rights institution have the authority to monitor how remedies for violations of rights to water and sanitation are implemented by governmental authorities, service providers or others agencies/entities?**

Yes, The National Human Rights Institutions do have the authority to monitor and oversee the implementation of the remedies for the violations of the rights to water and sanitation.

#### D. Regulation

**Is there a water regulator established by law?**

Under the Environment Protection Act, 1986, the Central Ground Water Body was constituted as The Central Ground Water Authority (CGWA).

Under the Water (Prevention and Control of Pollution) Act, which has now been adopted by every state in India, the Central Pollution Control Board (CPCB) and individual State Pollution Control Boards (SPCB) have been established.

**Is the water regulator an independent entity?**

The water regulators are not entirely independent as they are subject to the authority of the various Ministries at the Central and State levels. This includes the Ministry of Environment, Forest and Climate Change

**What are the oversight mechanisms and responsibilities related to drinking water supply and sanitation services of the regulator?**

The CGWA has within its mandate the regulation and control, management and development of ground water in the country and to issue necessary regulatory directions for such purpose. Some states have been granted authority to exercise power through a State Ground Water Authority. The CGWA's jurisdiction applies to the whole of India and importantly it extends to regulating withdrawal of ground water by industries and infrastructure projects.

Permission to extract ground water by energised means is obtained by application in the form of a NOC. CGWA categorises areas according to their groundwater availability in relation to the presence of a significant long-term water level decline trend: Safe, Semi-Critical, Critical, and

Over-exploited. The classification of the area is taken into consideration for the NOC application.

**Which actors are responsible for ensuring accountability of institutions or entities involved in water supply and sanitation services?**

Across the various states, the respective human rights institutions, state pollution control boards and the courts (at the district level), High Courts at the State level and the Supreme Court are responsible for the ensuring the accountability of institutions or entities involved in water supply and sanitation. However, this oversight mechanism is only triggered through a compliant and does not involve a proactive mechanism of oversight.

The Central Ground Water Board (CGWB) monitors and implements the policies at a national level. The Central and State Pollution Control Boards have set up an expansive national water quality monitoring network which is comprised of 2500 stations in 28 States and 6 Union Territories.

**How are the actions of those entities or institutions monitored and by whom? As much as possible, please inform on the different aspects of water and sanitation services: e.g. water quality, tariff setting, availability of water resources, service delivery, etc.?**

The Ministry of Water Resources, River Development, and Ganga River Rejuvenation (MoWR) is the preeminent authority for India's water resources, including formulating the national water policy and programmes. Under the umbrella of the MoWR are various organisations, most notably the Central Water Commission (CWC) and the Central Ground Water Board (CGWB).

The Central Pollution Control Board and related State Pollution Control Boards have established an expansive national water quality monitoring network which is comprised of 2500 stations in 28 States and 6 Union Territories. The monitoring is set to be executed on monthly or quarterly basis for surface waters and on half yearly basis for ground water. The 2500 stations cover vast water sources as 1275 are on rivers, 190 on lakes, 45 on drains, 41 on canals, 12 on tanks, 41 on creeks/seawater, 79 on ponds, 10 Water

Treatment Plant (Raw Water) and 807 are groundwater stations.