



# Legal Country Mapping

For the Rights to Safe Drinking Water and Sanitation and  
the link with the Right to a Healthy Environment

India

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## INTRODUCTION

This analysis follows the mapping methodology used by Human Right 2 Water to assess the integration of the human rights to water and sanitation (HRWS) into law and policy at national level. It has been adapted and extended to give voice to the human right to a clean, safe<sup>1</sup>, healthy and sustainable environment (HRHE), with the aim of assessing the combined advantages of recognising both these sets of human rights.

It draws upon the criteria and principles that were originally laid out in General Comment No.15<sup>2</sup> for the human right to water and sanitation, with further elaboration of the right to sanitation after it was recognised as a separate human right in 2015. Alongside this and noting that the HRHE was also recognised as a human right by the General Assembly in July 2022<sup>3</sup>, we have compared the main principles of the HRHE as related to water. For this analysis, we draw upon the Framework Principles from the paper published by the Special Rapporteur on Human Rights and the Environment from 2018<sup>4</sup>, Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment<sup>5</sup>, and the paper titled 'Human Rights Depend on Safe and Sufficient Water', 2021<sup>6</sup>.

In addition to the principles of a human rights-based approach<sup>7</sup>, there are the normative criteria of the human rights to water and sanitation which are specific to the realisation of these rights. The substantive elements of the HRHE, as referenced in the Good Practices<sup>8</sup> paper mentioned above, are also considered here, where they are linked to water, specifically element 4 on the access to safe water and adequate sanitation. Given the significant advances in the design and measurement of national indicators for the supply of clean and safe drinking water and sanitation through the Joint Monitoring Programme<sup>9</sup>, General Comment No.15 has been augmented, especially on the topic of sanitation, which was recognised as a separate right in 2015. For the purposes of this analysis, the criteria have been maintained as the five elements of the human rights to water and sanitation, and there are additional questions relating to specific environmental aspects that support these rights.

For reference, Annex 2 collates the two sets of human rights principles, looking at how they relate under each category.

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<sup>1</sup> Note that the word 'safe' has been included in several places, including the title of the Special Rapporteur, and the framework principles, but not in the latest UNGA resolution.

<sup>2</sup> General Comment No. 15 on the Right to Water, was adopted in November 2002, by the Committee on Economic, Social and Cultural Rights and then explicitly recognized on 28 July 2010, through [Resolution 64/292](#), the United Nations General Assembly

<sup>3</sup> The human right to a clean, healthy and sustainable environment, July 2022 (A/76/L.75)

<sup>4</sup> Framework Principles from the paper published by the Special Rapporteur to the Healthy Environment from 2018, ARC/37/59

<sup>5</sup> Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment, March 2020, A/HRC/43/53

<sup>6</sup> 'Human Rights Depend on Safe and Sufficient Water', 2021, HRC/26/48

<sup>7</sup> The elements of the HRBA are Participation, Accountability, Non-discrimination and Equality, Empowerment and Legality.

<sup>8</sup> Good Practices on the Right to a Safe, Clean, Healthy and Sustainable Environment, March 2020, A/HRC/43/53

<sup>9</sup> JMP, WHO and UNICEF data found at [www.washtdata.org](http://www.washtdata.org)

## Overview of national water governance for <Country>

### General Legislation

	Supreme Law	<b>Constitution/Union</b>
1.A.1	State Organization	<b>Quasi-Federal</b>
1.A.2	Relationship between International and National Law	<b>Dualist</b>
1.A.3	Name of Institution possessing regulation-making authority	<b>Parliament</b>
1.A.5	Popular consultation as part of governing/legislative process	<b>No</b>
1.A.8	Member of a regional integration organization	<b>Yes</b>
5.C.1	Independent National Human Rights Institution (NHRI)	<b>Yes</b>

### Water Governance

3.A.1	Right to Water mentioned in Constitution	<b>No</b>
3.A.2	Right to Sanitation mentioned in Constitution	<b>No</b>
3.A.3	Right to a clean and healthy Environment in Constitution	<b>No</b>
3.A.4	A water code or a law specific to water resources	<b>Yes</b>
3.A.5	National Strategy, Policy, Action Plan etc. on Water and Sanitation	<b>No</b>
1.A.8	International institution for Transboundary Water Resources	<b>Yes</b>
3.C.7	Priorities in the allocation of water for different uses?	<b>Yes</b>

### Benchmark Scores<sup>10</sup>

Section	Elements included in law	Score
4.A	Availability and Accessibility	Partially included
4.B	Quality and Safety	Partially included
4.C	Water Pollution Control	More than half
4.D	Affordability	Mostly included
4.E	Acceptability	Partially included
4.F	Non-Discrimination, Equality, Universal Access	More than half
4.G	Right to Information, transparency	Mostly included
4.H	Public Participation	More than half
4.I	Accountability, remedies and complaints procedures	Mostly included
4.J	Sustainability	Partially included
	<b>TOTAL</b>	Partially included

**KEY**

<span style="color: blue;">■</span>	Mostly included
<span style="color: cyan;">■</span>	More than half
<span style="color: yellow;">■</span>	Partially included
<span style="color: orange;">■</span>	Few references

<sup>10</sup> Score up to 10 allowed for each element, with a score of 10 suggesting that all relevant laws are fully included, zero suggests there are no laws to fit this criterion, and scores on a scale of 1-10 represent the degree of inclusion of pertinent laws (double click to activate excel sheet for calculation).

## CHAPTER 1. WATER GOVERNANCE OVERVIEW

A- Preliminary questions:

1. **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 of India vests most powers with the Central Government also referred to as the 'Union.' ]

2. **Is there any division of government powers? If yes, please elaborate on their functions.**

[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 of India and consists of two Houses - the Council of States and the House of the People. ]

3. **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 of India, Part XI, Article 245). The Seventh Schedule of the Constitution lists specific matters over which Parliament and the States shall have exclusive authority to make laws for their respective jurisdictions or in some cases with respect to concurrent subjects (The Constitution of India, Seventh Schedule List I, II, III, Part XI, 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 of India, Part XI, Article 246(4)).

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

4. **Who has the power to ratify treaties?**

[In India, Parliament holds the power to ratify a treaty (The Constitution of India, Seventh

Schedule, List I, entries 14; Part XI, Article 253.)]

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

[There is no direct inclusion of popular consultation in the legislative process. However, as a State party to the International Covenant on Economic, Social and Cultural Rights, India should ensure that individuals and groups are given full and equal access to information (held by public authorities or third parties) concerning water services and the environment (Committee on Economic, Social and Cultural Rights, General Comment No. 15 (2002), para. 48). In this regard, the Right to Information Act, 2005 (RTI Act), extends to the whole of India and seeks to afford every citizen with the right to access information held by public authorities (Preamble, RTI Act). Consequently, authorities have the responsibility to record, maintain appropriate records, and expeditiously handle any requests for information (RTI Act, 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 (Water governance and public participation: what matters? V. Dhanya and G. Renoy, 2017).]

6. **Has the country established one or several basin management agencies? 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, 1986 (EPA).

The NGRBA was however dissolved on 7th October 2016, consequent to constitution of the 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 EPA.]

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

[Yes, India shares a number of transboundary water resources with Pakistan, China, Nepal, Bhutan and Bangladesh.]

**8. 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 different treaties such as The Indus Waters Treaty 1960, concluded between India and Pakistan. For details of arrangements entered by India with other countries, see "Chapter 2: International and Regional Treaties" of this report. There is no responsibility in relation to drinking water, except that domestic use (which includes drinking water) is generally excluded in the context of restrictions on a country's use of certain water resources.]

B- The country is a member of a regional integration organisation.

**1. 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 SAARC 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 (SAARC, Social Charter, 2004, Article III).]

**2. Are the decisions of the organisation legally 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.]

**3. 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.]

**4. Does the regional organisation have the authority to regulate or make decisions which affect water, sanitation and a healthy environment? Are there any mechanisms for enforcement?**

[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:

**1. 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?**

- a. **At national/federal level?** [The Constitution of India encapsulates the responsibilities of the Government in the context of water within the Seventh 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 of India, Seventh Schedule, List I, entry 56). 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, Part XI, Article 262 (1)). Although the Constitution of India 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) includes ministries directly related to water and sanitation.]

- b. **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 of India, States have control of "... water supplies, irrigation and canals, drainage and embankments, water storage and water power." (The Constitution of India, Seventh Schedule, List II, entry 17; Part XI, Article 262). Notably, the Constitution of India 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 of India, Part IX Article 243G(b); Part IXA Article 243W). 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 of India, Eleventh

Schedule entry 11; Twelfth Schedule, entry 5). ]

- c. **At the local level?** [As encapsulated within the 73rd and 74th Constitutional Amendment Acts, 1992, which requires States to constitute panchayats and municipalities in accordance with 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. The Water Supply and Sewerage Board in State of Gujarat 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). Similar legislation has been passed at the State level across India to regulate the development and proper regulation of water supply and sewerage services at the State level. Generally, the responsibility for water supply in major cities is through the municipal governing body often referred to as Municipal Corporations.]

2. **Which government ministries/agencies are directly or indirectly involved in governance of water and sanitation and a healthy environment?**

[The following federal ministries/ agencies

are directly or indirectly involved in the governance of water and sanitation:

**Ministry of Jal Shakti** (MoJS) encompasses two relevant departments, being (1) the Department of Water Resources, River Development and Ganga Rejuvenation (DoWR), and (2) the Department of Drinking Water and Sanitation (DoDWS).

**The Department of Water Resources, River Development, and Ganga Rejuvenation** (DoWR) is the preeminent authority for India's water resources. Its primary responsibilities include formulating the national water policy and programmes. The DoWR has been assigned the work of the National Water Resources Council. In addition, under the umbrella of the DoWR are various organisations, most notably an office named the Central Water Commission (CWC) and a subordinate office named 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, including drinking water supply.

**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. (Government of India (Allocation of Business) Rules 1961). Notably, the MoHUA 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, 1974, 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 food, including packaged drinking water (The Food Safety and Standards Act, 2006, Article 5).

In addition, each State has a Ministry for Water Supply and Sanitation, with different departments covering areas such as urban development, rural development and water conservation and public health. These ministries and agencies further regulate water and sanitation at the State and local level. ]

3. **Which national government agency is responsible for the environment? What are its responsibilities with respect to water?**

[Generally, the **Ministry of Environment, Forest and Climate Change (MoEFCC)** is responsible for the planning, promotion, coordination and overseeing the implementation of India's environmental and forestry policies and programmes. Broadly, the MoEFCC's objectives include: (a) conservation and survey of flora, fauna, forests and wildlife, (b) prevention and control of pollution, (c) afforestation and regeneration of degraded areas, (d) protection of the environment, and (e) ensuring the welfare of animals. Its responsibilities with respect to water are found in its management of pollution through the Central Pollution Control Board.]

4. **Which national government 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. (DoWR, *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 Central Water Commission (CWC)** monitors the water quality at 552 key locations which covers all of the major river basins in India. The data is maintained on the water quality 'Management Information System'. ]

5. **Which national government agency is responsible for sanitation? What are its responsibilities?**

[The **Department of Drinking Water & Sanitation (DoDWS)** is responsible for the establishment of improved sanitation facilities within rural areas.

The DoDWS has implemented the Jal Jeevan Mission which strives to provide safe and

adequate drinking water through individual household connections by 2024 in all households throughout rural India.

The DoDWS 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. **What international or regional treaties has the country ratified? Please insert the date of the signature/ratification/accession.**
2. **What declaration or reservation has the country entered to these instruments?**

## A. Regional Multilateral/Bilateral Treaties

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	12 February 1996
SaptaKosi High Dam Project and SUN Kosi Storage-cum-Diversion Scheme	India, Nepal	In consultation as of October 2022
Kamla and Bagmati Multipurpose Projects	India, Nepal	
Karnali Multipurpose Project	India, Nepal	
<b>India-Bangladesh Cooperation</b>		
Joint Rivers Commission	India, Bangladesh	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
MOU between the Ministry of Jal Shakti, Government of the Republic of India and the Ministry of Water Resources, Government of the People's Republic of Bangladesh on Withdrawal of Water by India and Bangladesh from Common Border River Kushiya.	India, Bangladesh	6 September 2022
<b>India-China Cooperation</b>		
MOU upon provision of Hydrological Information of the River Brahmaputra / Yaluzangbu.	India, China	5 June 2008 (renewed in 2018)

Implementation Plan on River Brahmaputra	India, China	13 June 2019
MOU on Strengthening Cooperation on Trans-Border Rivers	India, China	23 October 2013
MOU on Hydrological Data Sharing on River Sutlej / Langqen Zangbo	India, China	April 2005 (renewed in 2015)
Implementation Plan on River Sutlej	India, China	13 April 2016
Joint Expert Level Mechanism	India, China	November 2006
<b>India-Bhutan Cooperation</b>		
Comprehensive Scheme for Establishment of Hydro-meteorological and Flood Forecasting Network on rivers Common to India and Bhutan	India, Bhutan	1955
Joint Experts Team	India, Bhutan	1992
Joint Group of Expert on Flood Management	India, Bhutan	
Joint Technical Team on Flood Management	India, Bhutan	April 2005
<b>India-Australia Cooperation</b>		
MOU between the Government of the Republic of India and the Government of Australia on Cooperation in the Field of Water Resources Management	India, Australia	5 September 2014
<b>India-Japan Cooperation</b>		
Memorandum of Cooperation between the Ministry of Jal Shakti of the Republic of India and the Ministry of the Environment of Japan in the Areas of Decentralized Domestic Waste Water Management	India, Japan	19 March 2022
<b>India-Netherlands Cooperation</b>		
MOU on Cooperation in the Field of Water Management Between the Ministry of Water Resources, River Development and Ganga Rejuvenation of the Republic of India and the Ministry of Infrastructure & the Environment of the Netherlands	India, Netherlands	27 June 2017

## B. International Treaties

Table 2. International binding instruments

Instruments	Signature	Ratification
<p>International Covenant on Civil and Political Rights (1966)</p> <p><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> 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>International Covenant on Economic, Social and Cultural Rights (1966)</p> <p><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><u>Declarations:</u> Articles 4 and 8: The Government of the Republic of India declares that the provisions of the said article (regarding the limitation of rights) shall be so applied as to be in conformity with the provisions of article 19 of The Constitution of India.</p> <p>Article 7(c): The Government of the Republic of India declares that the provisions of the said article (regarding the right of equal opportunity in the workplace) shall be so applied as to be in conformity with the provisions of article 16(4) of the Constitution of India.</p>		10 April 1979

Instruments	Signature	Ratification
<p>Convention on the Elimination of All Forms of Discrimination against Women (1979)</p> <p><u>Reservation/Declaration:</u> Articles 5(a) and 16(1): 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>Article 16(2): 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><u>Reservation:</u></p> <p>Article 29: The Government of the Republic of India declares that it does not consider itself bound by paragraph 1 of this article.</p>	30 July 1980	9 July 1993
<p>Convention on the Rights of the Child (1989)</p> <p><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.</p>		11 December 1992
<p>The Convention on the Rights of Persons with Disabilities (2006)</p> <p><u>Reservation/Declaration:</u> Nil.</p>	30 March 2007	1 October 2007
<p>Optional Protocol to the Convention on the Rights of Persons with Disabilities (2006)</p> <p><u>Reservation/Declaration:</u></p>	N/A	N/A

<b>Instruments</b>	<b>Signature</b>	<b>Ratification</b>
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) <u>Reservation/Declaration: Nil.</u>	14 October 1997	
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

### C. Regional

*Table 3. Regional instruments*

<b>Instruments</b>	<b>Signature</b>	<b>Ratification</b>
None		

## CHAPTER 3: DOMESTIC LEGISLATION ON WATER

### A. Water law

1. **Is the right to water mentioned in the Constitution?**

[No, The Constitution of India does not explicitly mention the rights to water. ]

2. **Is the right to sanitation mentioned in the Constitution?**

[No, The Constitution of India does not explicitly mention the rights to Sanitation.]

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

[The Constitution of India guarantees the Right to Life (The Constitution of India, Part III, Article 21) which has been progressively interpreted by the courts in India (Subhash Kumar v State of Bihar AIR 1991 SC 420) to include the rights to water and sanitation within the overarching right to a clean environment.]

4. **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, 1974 and the subsequent enforcement text - The Water (Prevention and Control of Pollution) Rules, 1975 form the foundations of water legislation within India. There are specific laws relating to water resources enacted and enforced by State legislatures across India.]

5. **Is there national strategy / policy, action plan or similar document on water? Does it include the management of wastewater and sanitation?**

[No, there is no legislation that encapsulates the national strategy on water. It is an executive act under the erstwhile Ministry of Water Resources, River Development and Ganga Rejuvenation (now the Ministry of Jal Shakti). The objectives, strategies, plan of

action, timelines, monitoring and evaluation criteria are all laid down in a National Water Mission formulated by the Ministry.]

6. **Are there any other major regulations, decrees, orders, circulars, or similar official documents (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 Easements 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 (Prevention and Control of Pollution) 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.

**The Water (Prevention and Control of Pollution) Act, 1974 -** It provides uniform law across the country for the prevention and control of water pollution and maintaining the wholesome nature of water. Most importantly, it established Central and State Pollution Control Boards who are vested with the powers necessary to carry out the purposes of the Act.

**The Environment (Protection) Act, 1986 -** It is an umbrella legislation that has provided a framework for the environmental regulation regime in India, which covers all major industrial and infrastructure activities and prohibits and regulates specific activities in coastal areas and eco-sensitive areas. The Act empowers the Central Government to take action to protect the environment (which includes water) and to give direction to the closure, prohibition or regulation of pollution.]

## B. Environmental law

### 1. Is the right to a healthy environment mentioned in the Constitution?

[No, Constitution of India does not explicitly mention the Right to a Healthy Environment.]

### 2. Does the Constitution otherwise reference a safe, clean and healthy environment?

[The Constitution of India guarantees the Right to Life which has been progressively interpreted by the Supreme Court of India to include the Right to a Clean Environment ([The Constitution of India, Part III, Article 21](#)). The Constitution of India requires the States to endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country ([The Constitution of India, Part IV, Article 48A](#)).

The Constitution of India confers a duty on the citizens of India to protect and improve the natural environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures ([The Constitution of India, Part IVA, Article 51A\(g\)](#)).

### 3. Is there an environmental code or law that references water?

[The Environment (Protection) Act, 1986 provides that the Central Government may make rules that provide for the standards of quality of air, water or soil for various areas and purposes (section 6).]

### 4. Is there a national strategy, policy, action plan or similar document on the environment?

[The Environment (Protection) Act, 1986 is the overarching law under which the central government can adopt rules and notifications as it sees fit to regulate environmental pollution (such as the Solid Waste Management Rules 2016 and the Bio-Medical Waste Management Rules 2016. )

### 5. Are there any other major regulations, decrees, orders, circulation or similar documents related to the right to a healthy environment (such as resource consents, public domain occupation etc)?

[The following legislation is related to a healthy environment:

**The Air (Prevention and Control of Pollution) Act, 1981** - provides a process for

the collaboration of the Central and State Pollution Control Boards on the setting of air pollution standards and identifies various infringements and penalties.

**The Environment (Protection) Act, 1986** - is the umbrella law that enables the central government to take measures it deems necessary to protect and improve the environment, and to prevent, control and abate environmental pollution.

**The National Green Tribunal Act 2010** - provides the National Green Tribunal with jurisdiction over all civil cases where a substantial question relating to environment (including enforcement of any legal right relating to environment), is involved and such question arises out of the implementation of other environmental laws.

These legislations and related legislations linked to the use of natural resources regulate and control the use of natural resources. Licenses, planning permits and environmental impact assessments are required for any projects that utilise resources and have the potential to impact the quality of the environment. The Indian Judiciary has particularly active in taking suo moto cognisance of polluting and harmful activities across India that impact the overall health of the environment and directing the Federal and State governments to take remedial actions and preventive steps to maintain and protect the environment and right to life of citizens. ]

## C. Extraction and/or use of water

### 1. 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 2017. The 2011 Groundwater Model Bill recognised 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 2017 Groundwater Model Bill builds on the previous iteration by recognising “the serious groundwater crisis”. It expands to (i) include a strong environmental perspective by introducing protection principles for the environment, (ii) decentralise regulation and create a bottom-up institutional structure wherein each level of government is called upon to act as the trustee at their respective level, and (iii) ensure that the right to water is linked with other fundamental rights – particularly that drinking water has the highest priority among competing groundwater uses.

The most comprehensive water legislation to be contemplated in India is the National Water Framework Bill, currently in draft form since 2016 (as of October 2022). 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.]

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

[The Model Groundwater (Sustainable Management) Bill 2017 provides that drinking water has the highest priority among competing groundwater uses; after drinking water, water needed to achieve food security and sustaining sustenance agriculture takes precedence. This was previously only

recognised by the Supreme Court which 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).]

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

[Under the Easements 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.]

4. **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 (CGWA) (constituted by the Government of India under Section 3 (3) of the Environment (Protection) Act, 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 after an application, made in the form of a No Objection Certificate (NOC). The CGWA has issued guidelines for the grant of NOC for the withdrawal of groundwater. Specific restrictions are set out in the guidelines. After 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.

Permissions for usage of water are also required under various legislations depending on the nature of usage and the discharge of water:

- Water Act, 1974

- Air and Water (Prevention and Control of Pollution) Act, 1981]
5. **Can permits/licenses be suspended? Under what circumstances?**  
 [Licenses may be suspended in instances where the ground water level is critically low.  
 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.]
6. **Can water abstraction licenses be transferred? Is transferability subject to restrictions?**  
 [No, water abstraction licenses/permits or the NOC granted cannot be transferred.]
7. **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 various 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). ]
8. **Are there any regulations for monitoring the volume of water extracted from groundwater?**  
 [Yes – as stated at item 4 above, the CGWA regulates ground water development and management in the country. The requisite permit is issued subsequent to an application, made in the form of a NOC. The CGWA has issued guidelines for the grant of NOC for the withdrawal of groundwater. ]
9. **Are there any restrictions for releasing contaminants/pesticides/fertilisers/farm animal effluent/industrial waste or other pollutants to rivers, lakes, seas, or groundwater?**  
 [The Water (Prevention and Control of Pollution) Act, 1974 is the relevant law:
- **Section 24** - prohibits the use of a stream or a well for disposing any poisonous, noxious or polluting matter which may tend to impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.
  - **Section 31** - must notify the State Board and other agencies if poisonous, noxious or polluting matter is discharged causing pollution.
  - **Section 32** - if poisonous, noxious or polluting matter is discharged, the Board may take emergency measures of removing the matter, remedying the pollution and restraining any further pollution. ]
- Also, Section 25 of the Water Act, 1974 requires any person who is taking steps to establish any industry, operation or process, or any treatment and disposal system or an extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream, well, sewer or on land to obtain a consent to establish and operate a prescribed under this legislation.

## CHAPTER 4. THE HUMAN RIGHTS TO WATER AND SANITATION & SDG 6 TARGETS<sup>11</sup> including elements of the Human Right to a Healthy Environment

### A. Availability and accessibility (SDG 6.1, 6.2, 6.4)

#### 1. What laws or regulations 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 prioritizes domestic use of water over other uses.

On 15 August 2019, the Jal Jeevan Mission: Har Ghar Jal (**JJM**) was announced by the Prime Minister of India with an aim to ensure every rural household has a functional household tap connection (**FHTC**) by 2024. One of the schemes proposed to be taken up under JJM includes in-village water supply (**PWS**) infrastructure for tap water connection in every household. The JJM subsumed the National Rural Drinking Water Program Strategic Plan 2011-2022 to make provision for the FHTC.

#### 2. What are the standards/policies on the amount of water to be made available?

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

The JJM aims to provide FHTC at a minimum service level of at least 55 litres per capita, per day of water (**lpcd**). Under the Operational Guidelines for the Implementation of the Jal Jeevan Mission: Har Ghar Jal, December 2019, Annex VI (**JJM Guidelines**), any functionality of FHTCs is assessed based on a criteria where between 55 and 40 lpcd is considered a partially functional connection, and less than 40 lpcd is a non-functional connection.

#### 3. In cases where water is not available on premises, what mechanisms are in place to ensure collection times do not exceed 30 minutes including wait times and queuing?

There are currently no laws in place to ensure water collection times do not exceed 30 minutes including wait times and queuing.

As part of the JJM, the focus is to assure the supply of potable water to every home rather than just the creation of water supply infrastructure. The JJM envisages massive training and skilling programmes to build the capacity of local village community masons, plumbers, pump operators as well as of public health engineers so that they are able to ensure service delivery i.e. assured and regular supply of potable tap water in every home (Jal Jeevan Mission: Har Ghar Jal, Reforms in Rural Drinking Water Supply (Decentralized, demand-driven, community-managed water supply programme) 2022).

#### 4. Does the law ensure continuous supply of water for all? In instances where water availability is not continuous, what measures are implemented?

There is no law that ensures the continuous supply of water for all.

<sup>11</sup> See Table of the Targets and Indicators of SDG 6

As stated above, an aspiration of the JJM is to make provision of potable water to every rural household through tap water connection, by 2024. The JJM aims to provide water connection at a service level of 55 litre per capita per day (lpcd), of prescribed quality (BIS:10500), on regular and long-term basis to rural areas.

Separately, according to the World Bank, 24x7 continuous piped water supply continues to be a challenge in Indian cities. Through the assistance of the World Bank, certain Indian states such as Karnataka have implemented programs such as the Karnataka Water Supply Improvement Project to achieve 24x7 continuous piped water supply while other cities are still seeking to achieve this.

Further, the Indian governments, Ministry of Jal Shakti (Water Power) has chosen UNICEF as the 'development partner of choice' to assist with the revamping and implementation of the Government of India's flagship National Rural Drinking Water Programme (NRDWP).

UNICEF is currently working closely with the Ministry of Jal Shakti on the Jal Shakti Abhiyan and Jal Jeevan Abhiyaan.

UNICEF focuses on community-managed drinking water, including water safety and security planning, in support of the NRDWP. At the institutional level, UNICEF focuses on developing improved water quality monitoring systems and strengthening operation and maintenance of water supply infrastructures.

One current initiative is *Swajal*, which seeks to enable communities to self-manage safe water sources within their habitations, and is supported by UNICEF through policy development, training of trainers, and communication campaigns.

The Ministry of Jal Shakti launched "*Swajal*" as a pilot project that is designed as a demand-driven programme involving the community to provide sustainable access to safe drinking water to people in rural areas. The *Swajal* programme is

empowering communities to plan, design, implement and monitor single village drinking water supply schemes, and organize community ownership for operation and maintenance.

The target population for *Swajal* in 117 aspirational districts across 28 states is about 0.5 million a year. ([Clean drinking water | UNICEF India](#))

5. **How is water supply availability ensured for marginalized and vulnerable groups, e.g., economically challenged or less developed rural areas?**

To address water supply availability for marginalized and vulnerable groups in rural areas, the Ministry of Jal Shakti, Department of Drinking Water & Sanitation, undertakes the work of the JJM 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.

The Ministry of Jal Shakti/Department of Drinking Water and Sanitation also leads the Swachh Bharat Mission launched in 2014 seeking to attain universal sanitation coverage and achieve an open-defecation free India by 2019. This Mission was achieved on 2 October 2019 and is now moving to the next phase to ensure that open defecation free behaviours are sustained, and that solid and liquid waste management facilities are accessible in villages. (Ministry of Jal Shakti, *Swachh Bharat Mission*).

In line with the decentralized, demand-driven, community managed approach of the JJM, a water supply scheme is planned and implemented under the programme where the local village community owns the water supply system as well as operates and maintains it on a long-term basis.

The JJM also acknowledges the importance of the role women play in managing homes

where typically fetching water would be considered the responsibility of women. In line with this, the JJM requires a minimum of 50% of the members of the Village Water & Sanitation Committee/Pani Samitis to be women and at least five persons in every village, preferably women are to be trained on using Field Test Kits for testing the water quality in their village.

Under the JJM, every village is required to prepare a Village Action Plan focusing on drinking water sources, water supply systems, grey water reuse and operation and maintenance of these systems to ensure the long term and regular water supply in every home (Jal Jeevan Mission: Har Ghar Jal, Reforms in Rural Drinking Water Supply (Decentralized, demand-driven, community-managed water supply programme) 2022).

**6. Does the law/policy 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 199, 1996, SCC (2) 572).

**7. 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...)?**

Indian cities do not receive piped water 24 hours a day, 7 days a week. Piped water is mostly never distributed for more than a few hours per day, regardless of the quantity available. Raw sewage often overflows into open drains. than 50% of the urban population has access to piped water. The Non-Revenue Water (NRW: due to leakages, unauthorized connections, billing and collection inefficiencies, etc.) is to be around 38% 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)

Regarding the rural population, as of 31 December 2021, 45.56% of rural households have provision of tap water supply through the efforts of the JJM. (A Mission for Fulfilling Aspirations, Transforming Villages, 31 December 2021)

States have enacted Municipal Corporations Acts. These legislations govern the powers of the municipal corporations to supply water within the city that the municipal corporation is responsible for. These acts govern the construction and supply of water by the corporations for private and public use within the city. The access to public water works is governed by the municipal commissioner and they have the right under the act to assign the use of the water for purposes as they deem fit. Access to these resources may also be limited by order of the municipal commissioner. Access to private water supply at any premises within the city is regulated by the municipal corporation and the use and supply of water is regulated by this corporation. There are no specific rules relating to the alteration of water supply services. Water supply and sanitation services for private use attract a fee and levy from the municipal corporation and failure to make the required payments may attract penalties including the disruption of water supply.

Further, some states have passed specific legislation governing the supply of drinking water in the event of scarcity of water for any reason. E.g. the Maharashtra Drinking Water Supply Act, 1983.

**8. 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. Within city limits the municipal corporation determines the rules and processes for water connections and supply of water and sanitation services. These differ from state to state.

**9. 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. By way of practice in some States where water supply from the municipal corporation is interrupted for any reason, the local bodies may arrange for ad hoc supply by way of water tankers.

**10. Does law/policy provide guidance on:**

**The number of water outlets?**

Each municipal corporation has detailed rules and requirements in relation to water connections and sewage facilities. For water connections, the rules prescribe different requirements and types of connections and outlets depending on whether the consumer is:

- A residential premise
- An industrial or commercial premises
- Premises having provision for rainwater harvesting, wastewater recycling or both
- Group housing societies

These criteria may differ from State to State and depending on the size and nature of the city where the municipal corporation operates.

Further, there are separate rules governing industrial usage of water for specific types of manufacturing and infrastructure projects, as well as the usage of water for irrigation purposes.

**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 construction of those facilities or of buildings)?**

Yes, these are specified under local statutes, building rules and regulations and local requirements which may differ from State to State.

**11. Are there any standards that protect healthy natural water bodies to guarantee sustainable sources of water for drinking or other household uses?**

Article 51(A)(g) of the Constitution of India specifically deals with the fundamental duty with respect to the environment. In terms of Article 51(A)(g), it is the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

Other than the legislation in respect to water pollution set out under this Chapter 4 (*Human Rights to Water and Sanitation and SDG6 Targets*), Part B (*Quality and safety*) below, the Government of India has launched certain policies such as the National Action Plan on Climate Change on 30 June 2008. One of the missions of this policy is the National Mission for Sustaining the Himalayan Ecosystem with the goal of preserving the delicate biodiversity of the Himalayan ecosystem which are a major source of freshwater in India. (Department of Science and Technology)

To help enhance and recharge aquifers, the JJM guidelines propose extending existing canal networks and/or building canals to transfer surplus flood waters from dams/reservoirs to ponds/lakes and other water bodies and recharge groundwater during monsoon season. (Operational Guidelines for the Implementation of the Jal Jeevan Mission: Har Ghar Jal, December 2019)

**12. Do groundwater sources and aquifers have an allocation of water volume protected**

**from extraction to ensure long term sustainability?**

Please see commentary above under Chapter 3 (*Domestic Legislation on Water*), Part C (*Extraction and/or use of water*), question 4.

**13. Is there any provision in the law/policy for the availability and accessibility of clean and healthy environmental spaces in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?**

Please see commentary below.

**14. Is there any provision in the law/policy for availability and accessibility of water and sanitation facilities in non-domestic places such as schools, hospitals, workplaces, prisons, refugee camps, etc.?**

The Government of India launched the Swachh Bharat: Swachh Vidyalaya National campaign driving Clean India: Clean Schools in respect of Indian schools. The campaign is to ensure that every school in India has a set of functioning and well-maintained water, sanitation and hygiene facilities. Water sanitation in schools refers to a combination of technical and human development components that are necessary to produce a healthy school environment and to develop or support appropriate health and hygiene behaviors. The technical components include drinking water, handwashing, toilet and soap facilities in the school compound for use by children and teachers. The human development components are the activities that promote conditions within the school and the practices of children that help to prevent water, hygiene and sanitation related diseases. (Department of School Education and Literacy)

Under the JJM, priority is placed on the provision of piped water in schools, anganwadi centres and ashramshalas.

In relation to healthcare facilities in India, UNICEF reports that only 19.2% of labour rooms and 3.2% of post-natal care wards across 3 tiers of health facilities have

functional toilets. According to the findings of the 2011 Global Antibiotic Resistance Partnership report, a large proportion of hospital acquired infections in India are preventable with increased infection control, including increasing hygiene practices such as frequent handwashing. In 2015, the Ministry of Health and Family Welfare (**MoHFW**) with support from UNICEF, instituted the KAYAKALP scheme which is a scheme for rewarding best-performing health facilities at all levels based on an external assessment by a team constituted by the health departments of each state. In 2016, UNICEF in conjunction with MoHFW and the Ministry of Jal Shakti/ Department of Drinking Water & Sanitation instituted the Swachh Swasth Sarvatra scheme to optimize the benefits of the Swachh Bharat Mission and the KAYAKALP schemes by motivating the blocks to become Open defecation-free to ensure the nearby community health centers become KAYAKALP compliant.

In respect of prisons, despite the constitutional Right to Life under Article 21 of the Constitution of India, the health needs of prisoners have been neglected. The Government of India introduced the Model Prison Manual in 2016 with an aim to uphold every prisoners' rights to, among others, basic minimum needs (which include adequate diet, health, medical care and treatment, access to clean and adequate drinking water, access to clean and hygienic conditions of living accommodation, sanitation and personal hygiene, adequate clothing, bedding and other equipment). (Model Prison Manual, 2016)

In relation to refugees, India is not a party to the 1951 Refugee Convention or its 1967 Protocol and does not have a national refugee protection framework. India does however grant asylum to a large number of refugees and respects the UNHCR's mandate for other nationals mainly from Afghanistan and Myanmar. India respects the principle of *non-refoulement* for holders of UNHCR documentation. The absence of a national

legal and administrative framework means that different standards are in place for the protection of refugees including in respect of health and sanitation. Refugees generally live in harsh environments where access to water, sanitation and hygiene are difficult and below standards. (UNHCR)

There are some statutes that recognize the rights and duties relating to sanitation in the workplace. It is a mandatory duty to provide basic sanitation facilities, including a right to have separate toilets for women and men at public places, schools and workplaces. (Right to Sanitation, National Human Rights Commission India, 2021)

## B. Quality and safety (SDG 6.1, 6.2, 6.3)

### 1. **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.

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

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 water quality through regular analysis, modelling studies, water supply investigations, artificial recharge studies and periodic ground water observation. (Ministry of Jal Shakti, *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 the Ministry of Jal Shakti.

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 erstwhile Ministry of Jal Shakti/ Department of Drinking Water & Sanitation issued the Uniform Drinking Water Quality Monitoring Protocol, 2013 (Uniform Protocol 2013), calling for the Uniform Protocol 2005 to be revised to encompass 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 Jal Shakti, Department of Drinking Water & Sanitation, February 2013).

**3. Are there any regulations to control or monitor the quality of groundwater aquifers so that they do not become contaminated?**

Groundwater regulation at the state level is generally based around a centralized framework that empowers the state to intervene into, and have control over, access to groundwater by individual landowners. Existing legal instruments do not go beyond this interventionist framework and do not include aquifer-wide conservation measures. (Water Law in India: An Introduction to Legal Instruments (2<sup>nd</sup> edition), Chapter 9 (Protection and Regulation of Groundwater)).

The Ministry of Jal Shakti, Department of Drinking Water & Sanitation, introduced the Groundwater (Sustainable Management) Bill, 2017 with an aim to take measures at aquifer

level, however this bill has not been enacted into law as of October 2022.

**4. 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 legislation does 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).

**5. 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 septic 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 fecal sludge and septic discharge to prevent the contamination of ground water, surface water and ambient air.

The SWM Rules 2016 also regulate the disposal and treatment of fecal sludge and septic discharge, 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, pools, leach pits, drainage fields etc. also need to be examined and considered while framing the National Policy on Fecal Sludge and Septage Management (**FSSM Policy**).

The Model Building Byelaws, 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 Fecal Sludge and Septage Management (FSSM), 2017).

**6. 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 hand pumps is the predominant source of drinking water. However, due to the severe bacterial contamination of the drinking water within these hand pumps 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 (SDG 6.3, 6.6)**

**1. 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 and called for states to establish their own State Pollution Control Board 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. (Cess Act, Article 2(a); and The Water (prevention and Control of Pollution) Cess (Amendment) Act, 2003, article 2).

Adherence to the Cess 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 at

the lowest tax rate. (The Water (prevention and control of pollution) Cess (Amendment) Act, 2003 Article 6).

**2. Is there legislation which regulates the contamination of groundwater? How is it addressed in practice?**

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 a monthly or quarterly basis for surface waters and on half yearly basis for ground water.

The Central Ground Water Authority 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.

In practice, groundwater contamination and depletion remain a problem in India and groundwater education remains a neglected area. The Government of India is continuously trying to develop its water infrastructure to address the problem including the preparation by the CGWB of its 'Master Plan for Artificial Recharge to Groundwater – 2020' that involves the construction of about 1.4 crore rainwater harvesting and artificial recharge structures in the country to harness 185 billion cubic meters of water.

**3. Do laws/regulations provide constraints on the levels of nitrates and phosphates that are released into groundwater through agricultural land use?**

No.

**4. 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 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 (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).

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

N/A

**6. 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 like 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 (SDG 6.1)

1. **How does law/policy address affordability of water supply and sanitation services?**

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

2. **What mechanisms must be established by law/policy 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 not 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).

3. **How are tariffs established 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.

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

Yes.

5. **Which actors are 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.

6. **Is disconnection from water supply and sanitation services for non-payment allowed? What procedures must be followed in such cases prior to disconnecting the supply and service? Are**

**there any further consequences (other than shutoffs) for bill non-payment?**

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 (SDG 6.1, SDG 6.2)

1. **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.

2. **Is there provision in the law or contracts with service providers that relate to the need to ensure dignity and privacy (e.g., in workplaces, 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.

The Government of India introduced a draft of The Prohibition of Employment as Manual Scavengers and their Rehabilitation (Amendment) Bill, 2020 to amend the PEMS Act 2013. The draft proposes to completely mechanise the process of cleaning sewers and septic tanks and provides a legal basis for compensation to be provided for fatalities. However, efforts to

pass the bill seem to have ceased on or around March 2021.

3. **Is there provision in the law or contracts with service providers that relate to the need to ensure that people affected by the service do not suffer from a reduction in the health of their environment?**

No.

F. Non-discrimination, equality, and universal access (SDG 6.1, 6.2)

1. **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, but Article also 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 subject of Schedules Castes and Schedule Tribes has also been encapsulated within List III of the Constitution, over which the Central Government and the States have concurrent authority. A few 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 preaching and 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, Art. 4).*

The Scheduled Castes and Scheduled Tribes (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.

2. **Is there provision in the law or contracts with service providers that relate to the need to ensure that people affected by the service do not suffer from a reduction in the health of their environment?**

[Article 21 of the Constitution states that “no person shall be deprived of his life or personal liberty except according to the procedure established by law”. This was interpreted by the court to include the entitlement of citizens to receive safe drinking water (potable water) in *Bandhua Mukti Morcha vs. Union of India*, where the petitioner was an ‘an organisation dedicated to the cause of the release of bonded labourers’. By various surveys, it was found that several workmen in these mines were migrant workers from other States in India who were ‘bonded labourers.’ They were living in conditions of extreme poverty. The mine owners did not provide them with shelter, clean drinking water, latrines or medical facilities due to the same – as such, the petitioner filed a petition under Article 32 of the Constitution. The Supreme Court, by stating that there is no doubt that pure drinking water is essential to the health and welfare of the workmen and some authority must be responsible for providing it, derived the concept of right to ‘healthy environment’ as part of the right to life.

The court recently reiterated again that “the right to access to clean drinking water is

fundamental to life and there is a duty on the state under Article 21 to provide clean drinking water to its citizens". It was held by the court that "Any act of the State that allows pollution of water body must be treated as arbitrary and contrary to the public interest and in violation of the right to clean water under Article 21. ]

**3. Are there any legal measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities?**

[The Constitution does encapsulate the duty of the State to provide public assistance in cases of old age, sickness and disablement (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.

**4. 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 erstwhile Ministry of Drinking Water & Sanitation (now the Ministry of Jal Shakti) 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 (Ministry of Drinking Water and Sanitation, Handbook on Accessible Household Sanitation for Persons with Disabilities, December 2015).]

**5. Is there any legal recognition for women in the empowerment, leadership, decision-making and full, equal and meaningful participation of women and girls, and the role that women play as managers, leaders and defenders of natural resources and agents of change in safeguarding the environment and water resources?**

[The National Commission for Women (NCW), established pursuant to the National Commission for Women Act, 1990, seeks to advise the 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).)]

**G. Right to information, Transparency (SDG 6.b)**

**1. 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 RTI Act, preamble). Authorities have the responsibility to record and maintain appropriate records and any request for information should be handled expeditiously, and in any event within 30 days of the receipt of the request (the RTI Act, Sections 4 and 7). ]

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

Yes – Section 6 of the RTI Act states that a request for information should be made together with the accompanying fee. In addition, Section 7 states that the information should be provided on payment of such fee as may be prescribed or the request can be rejected for the reasons specified in Sections 8 and 9.

Section 7 states that the fee shall be “reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.”]

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

[Section 8 of the RTI Act contains a list of exceptions such that there shall be no obligation to give any citizen certain information. There is no specific limb which refers to water and/or the environment, however, certain limbs are very broad and therefore, could arguably capture such matters.]

4. **Which institutions are required by law/policy to make information on water public? Does it 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 Department of Drinking Water & Sanitation provides technical and financial assistance to the States to provide safe and adequate drinking water to rural India with focus on service delivery. The Department’s Centrally Sponsored Scheme, the National Rural Drinking Water Programme (NRDWP), was restructured and subsumed into Jal Jeevan Mission (JJM) to provide Functional

Household Tap Connection (FHTC) to every rural household i.e., Har Ghar Jal, by 2024. The Department of Drinking Water & Sanitation provides certain information, including monthly reporting, surveys etc. on its website. There also appears to be the ability to request further information by submitting requests.]

5. **Are there requirements in relation to the language, locations, format, timing and means used for providing water and environment related information to the public? What mechanisms are in place to ensure information is made available to all including to minorities?**

[There are no specific legal requirements. However, Department of Drinking Water & Sanitation website does contain an accessibility statement. This states that it is committed to ensure that the website is accessible to all users irrespective of device in use, technology or ability, and that the website has been built, with an aim, to provide maximum accessibility and usability to its visitors.]

6. **Are there any mechanisms to ensure that education on the importance of a healthy environment is included in school curricula, and that the link is made with sustainable drinking water supplies?**

[Yes – firstly, the Constitution of India (Article 21) simply states that “The State shall provide free and compulsory education to all children of the age of six to fourteen in such manner as the State may, by law, determine.”

In addition, environmental education is mandated by the Supreme Court of India and overseen by the National Council of Education Research and Training (NCERT). The National Curriculum Framework, developed by NCERT, includes a “Protection of the Environment” component. In particular, the National Education Policy 2020 references that skills of students should include “environmental awareness including water and resource conservation, sanitation and hygiene.”]



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

[As above.]

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.]

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

[This does not appear to be publicly available.]

**H. Public participation (SDG 6.5.1, 6.b)**

**1. Is there a law/policy which addresses public participation?**

[The key principles of the National Water Policy, 2012, include that the planning, development and management of water resources need to be governed by common integrated perspective, thereby, seemingly encouraging public participating. However, there does not appear to be specific law addressing this.]

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

[As stated above, there does not appear to be law relating to participation.]

**3. 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.]

**4. Is the establishment of an IWRM mechanism including 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?**

[The State Specific Action Plans (SSAPs) are a comprehensive policy for integrated water resource management to be developed in each state to promote a sustainable outlook on water governance aligned with the State Action Plan on Climate Change (SAPCCs) formulated by the States under the National Action Plan for Climate Change (NAPCC).]

The 'Framework for SSAP for the Water Sector' was developed in 2015 and consequently SSAPs were taken up as a strategy in 2016 under the 5th Goal which aims to promote basin level integrated water resource management.]

**I. Sustainability (SDG 6.4, 6.5, 6.6)**

**1. How does legislation/policy ensure that water and sanitation services are delivered in an improved and 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.]

**2. How does legislation/policy ensure that water and sanitation services are delivered in a sustainable manner to rural and deprived urban areas?**

[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.

**3. How does the legislation/policy ensure that delivery of water and sanitation services are economically sustainable, with sufficient expenditure for operation and maintenance and the protection of the environment?**

[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.]

**4. How does the legislation/policy reduce the number of people suffering from water scarcity by optimising water use efficiency across all sectors, and ensuring sustainable withdrawals?**

[Water abstraction is limited in the sense that the grant of a No Objection Certificate for ground water extraction for drinking and domestic purposes in relation to infrastructure projects, industries, and the

mining sector, are considered only on the production of a completion certificate from the competent authority. Further, an NOC for ground water withdrawal is only considered in cases where the water supply department concerned is unable to supply an adequate amount of water in the area.

A NOC will not be granted to industries for the extraction of ground water for construction activities in critical/over-exploited areas. Similarly, water intensive industries (like packaged drinking water, tanneries, distilleries, breweries, paper and pulp industries, fertiliser companies, water parks and amusement centres) must not abstract water from overexploited areas.

Recently, the Central Ground Water Authority has notified new guidelines for the extraction of ground water by all users. Applications for an NOC for ground water abstraction are now processed based on the type of activity undertaken and not merely based on whether the area has been notified or not. NOCs in areas already notified are also now governed by the revised guidelines and are issued by the Central Ground Water Authority or State/Union Territory Ground Water Authority.]

**5. Is there any legislation/policy to protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes?**

[There is a centrally sponsored scheme "Repair, Renovation & Restoration (RRR) of Water Bodies (WBs)" which is a component of Pradhan Mantri Krishi Sinchayee Yojana (PMKSY) – Har Khet Ko Pani (HKKP) being implemented by Ministry of Jal Shakti. Under the scheme, financial assistance is being provided to the State Governments for renovation, repair and restoration of identified water bodies.]

**J. Accountability/ Remedies and complaint procedures**

**1. Are there remedies provided by law/regulations to file complaints or other ways of accessing justice in reference to water, sanitation and a healthy**

**environment? Who may file them? Are the decisions appealable?**

[According to the Seventh Schedule of the Constitution of India, 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 stipulate 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)).

Citizens may take the following actions:

- File a complaint with the State Pollution Control Boards in the state where the polluting activity is taking place;
- File a complaint/case with the National Green Tribunal;
- File complaints with the relevant municipal corporations;
- File a complaint for nuisance with a district magistrate .

The decisions of these bodies are capable of being appealed and in the event any authority fails to act or is negligent in performing its duties, the appeals and complaints may be made to the High Courts and Supreme Court by invoking the writ jurisdiction of these courts to protect a citizen's right to life by way of a public interest litigation.

2. **Are there possibilities for financial assistance for legal counsel in cases concerning water, sanitation and a healthy environment?**

[No, there does not appear to be 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.

In order to ensure the economic accessibility of such a procedure, there is only a nominal fixed court fee involved with such a litigation, and the case can be initiated a 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.]

3. **Who monitors water & sanitation service providers?**

[The Central Water Commission monitors the water quality of rivers. Municipal corporations of cities and other local government authorities are responsible for the water and sanitation services. These are monitored by the relevant State governments.]

4. **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 includes the Water (Prevention and Control of Pollution) Act of 1974. 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. ]

5. **Are there any protective mechanisms to ensure that there is a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence?**

[N/A While no specific legislation exists to specify such mechanisms. India has a wide array of individual, groups and organs that champion human rights, environmental rights and other rights as enshrine in the Constitution of India. The Indian judiciary has over the years developed robust principles and guidelines through case law to protect the rights ass enshrined in the Constitution and also protect individuals, groups and other interest groups that have approached the court for relief. ]

6. **Is there any legislation to respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters?**

[Not specifically in relation to environmental matters, however, Article 19 of the Constitution states that all citizens shall have the right to freedom of speech and expression; and to assemble peaceably and without arms.

## CHAPTER 5. JUDICIARY SYSTEM

### A. CHAPTER 5. JUDICIARY SYSTEM

#### A. Preliminary questions

1. **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 of India 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. ]

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

[The Indian judicial system is organised in a pyramidal structure, with the Supreme Court as the top court and ultimate appellate court in India. Below the Supreme Court are the High Courts located within every state of the Union of India (the Constitution of India,

Article 214). Below the High Court within each state are the subordinate courts, known as the District Courts (The Constitution, Article 215). ]

3. **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

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

[Please refer to the response to Question J.1. above.]

2. **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 compliant 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***. 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. ]

**3. Does the law provide for financial assistance for legal counsel in cases concerning water and sanitation or access to a healthy environment?**

[There is no specific provision legal provision as such relating to 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. In order to ensure the economic accessibility of such a procedure, court fees are kept low (50 rupees (i.e. lesser than 1\$) 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. ]

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

[The Central Water Commission and the Central Ground Water Board monitor the service providers.

The Ministry of Environment, Forest and Climate Change in furtherance of its powers under the Environment Protection Act, 1986 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. ]

**5. 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). ]

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

[N/A ]

**7. Who monitors these administrative level bodies?**

[N/A ]

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

[ N/A ]

**9. 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?**

[India has a rich jurisprudence on enforcement of economic, social and cultural rights. For instance, in its first social rights case in 1980, the Indian Supreme Court ordered a municipality to fulfil its statutory duties to provide water, sanitation and drainage systems (*Municipal Council Ratlam vs. Vardhichand and others*). In another case involving the resettlement of communities owing to construction of a dam, the Supreme Court 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. ]

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

[Yes, the courts in India have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to a water, sanitation and a healthy environment.

**11. Articles 21, 48A and 51A(g) of the Indian Constitution take measures to protect the right to a healthy environment. The Indian**

apex court has played an active role in supporting the achievement of the above constitutional mandate given. For instance, in *Virendra Gaur & Ors v State of Haryana*, the Supreme Court held that right to life under Article 21 of the Indian Constitution includes right to life with human dignity which encompasses, the protection and preservation of environment, ecological balance, free from pollution of air and water and sanitation without which life cannot be enjoyed. There have been several other cases where the Court has created a rich jurisprudence on the rights to a healthy environment. ]

**12. Do courts in the country have jurisdiction to hear cases regarding the obligations to respect, protect and fulfil the human rights to a healthy environment? Is there any existing case law?**

[Please see our responses in #[10] above. ]

**13. 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 in our responses in #16 below. ]

**14. Is there a Constitutional /Supreme Court? Are cases 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. 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]

15. **Have domestic courts applied international human rights law in past cases or have they referred to decisions from international human rights bodies (with reference to water, sanitation and the environment)?**

[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.

Yes, the courts have referred to international human rights law in their decisions. For instance, in *Sheela Barse v. Secretary, Children's Aid Society*, the Supreme Court referred to the Declaration of Rights of the Child adopted by the General Assembly of the United Nations and in the International Covenant on Civil and Political Rights 1966. In the *Vishakha* case mentioned above, the Court referred to Convention on Elimination of All Forms Discrimination against Women (CEDAW) to which India is a Party, in the absence of a domestic law on the issue.]

**16. 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.]

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

[Yes, domestic courts have referenced recommendations and principles of human rights institutions. In 2021, a full bench of Madras High Court has held that the recommendation of State Human Rights Commission, under Section 18 of the Protection of Human Rights, are binding on the government and that they are legally

enforceable immediately. Similar views were earlier expressed by the Allahabad High Court in *State of Uttar Pradesh v. NHRC* (2016). ]

**C. National human rights institutions**

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

[The Indian National Human Rights Commission (NHRC) is a body created by the Union Government of India under the Human Rights Protection Act of 1993 (amended in 2006). The NHRC is an independent and impartial investigatory and advisory body, with a dual mandate to investigate and remedy instances of human rights violations and to promote public awareness of human rights. It is directly accountable to parliament but works in close coordination with the Ministry of Home Affairs and the Ministry of Law and Justice.

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 governments.]

**2. 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. After 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. ]

3. **Is the national human rights institution authorized to receive and adjudicate complaints of violations of human rights to water, sanitation and a healthy environment?**

[The NHRC has a mandate to address official violations of human rights or negligence in the prevention of violations, intervene in judicial proceedings involving allegations of human rights violations, and review any factors that infringe on human rights. The law authorizes the NHRC to issue summonses and compel testimony, produce documentation, and requisition public records. The NHRC also recommends appropriate remedies for abuses in the form of compensation to the victims of government killings or their families.

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 (as 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 (as amended in 2006)).

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

4. **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. ]

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

[When exercising their respective inquiry functions, 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 (as 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 (as amended in 2006)). In April 2021, a full bench of Madras High Court in *Ayyar v NHRC* has held that the recommendation of State Human Rights Commission, under Section 18 of the Protection of Human Rights, are binding on the government and that they are legally enforceable immediately. ]

6. **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. ]

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

[Yes, the Commissions do have the authority to monitor and oversee the implementation of the remedies for the violations of the rights to water and sanitation. In 2021, a full bench of Chennai High Court has held that the recommendation of State Human Rights Commission, under Section 18 of the Protection of Human Rights, are binding on the government and that they are legally enforceable immediately. Similar views were earlier expressed by the Allahabad High Court in *State of Uttar Pradesh v. NHRC* (2016).]

**D. Regulation**

**1. 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) with the mandate to develop and disseminate technologies and monitor and implement national policies for the scientific and sustainable development and management of India's ground water resources.

Under the Water (Prevention and Control of Pollution) Act, 1974, 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. Among others, the functions of the CPCB include:

- Advising the Central Government on any matter concerning prevention and control of water and air pollution and improvement of the

quality of air;

- Planning and causing to be executed a nation-wide program for the prevention, control or abatement of water and air pollution;
- Providing technical assistance and guidance to the state boards, carry out and sponsoring investigation and research relating to problems of water and air pollution, and for their prevention, control or abatement;
- Planning and organizing training of persons engaged in programme on the prevention, control or abatement of water and air pollution;
- Organising through mass media, a comprehensive mass awareness programme on the prevention, control or abatement of water and air pollution;
- Collecting, compiling and publishing technical and statistical data relating to water and air pollution and the measures devised for their effective prevention, control or abatement; and
- Disseminating information in respect of matters relating to water and air pollution and their prevention and control. ]

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

[The water regulators, although statutory bodies, 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. ]

**3. 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.

Across the various states, the respective human rights institutions, state pollution control boards and the courts 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 complaint 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.]

## ANNEX 1: TARGETS AND INDICATORS OF SDG 6

TARGET	INDICATOR (CUSTODIAN AGENCIES)
6.1 By 2030, achieve universal and equitable access to safe and affordable drinking water for all	6.1.1 Proportion of population using safely managed drinking water services (World Health Organization (WHO)/United Nations Children's Fund (UNICEF))
6.2 By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the needs of women and girls and those in vulnerable situations	6.2.1a Proportion of population using safely managed sanitation services (WHO/UNICEF)
	6.2.1b Proportion of population using a handwashing facility with soap and water available (WHO/UNICEF)
6.3 By 2030, improve water quality by reducing pollution, eliminating dumping and minimizing release of hazardous chemicals and materials, halving the proportion of untreated wastewater and substantially increasing recycling and safe reuse globally	6.3.1 Proportion of wastewater safely treated (WHO/United Nations Human Settlements Programme (UN-Habitat)/United Nations Statistics Division (UNSD))
	6.3.2 Proportion of bodies of water with good ambient water quality (United Nations Environment Programme/UNSD)
6.4 By 2030, substantially increase water-use efficiency across all sectors and ensure sustainable withdrawals and supply of freshwater to address water scarcity and substantially reduce the number of people suffering from water scarcity	6.4.1 Change in water-use efficiency over time (Food and Agriculture Organization of the United Nations (FAO))
	6.4.2 Level of water stress: freshwater withdrawal as a proportion of available freshwater resources (FAO)
6.5 By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate	6.5.1 Degree of integrated water resources management implementation (0–100) (United Nations Environment Programme)
	6.5.2 Proportion of transboundary basin area with an operational arrangement for water cooperation (United Nations Educational, Scientific and Cultural Organization (UNESCO)/United Nations Economic Commission for Europe (UNECE))
6.6 By 2020, protect and restore water-related ecosystems, including mountains, forests, wetlands, rivers, aquifers and lakes	6.6.1 Change in the extent of water-related ecosystems over time (United Nations Environment Programme/Ramsar Convention)
6.a By 2030, expand international cooperation and capacity-building support to developing countries in water- and sanitation-related activities and programmes, including water harvesting, desalination, water efficiency, wastewater treatment, recycling and reuse technologies	6.a.1 Amount of water- and sanitation-related official development assistance that is part of a government-coordinated spending plan (WHO/United Nations Environment Programme/Organization for Economic Cooperation and Development (OECD))
6.b Support and strengthen the participation of local communities in improving water and sanitation management	6.b.1 Proportion of local administrative units with established and operational policies and procedures for participation of local communities in water and sanitation management (WHO/United Nations Environment Programme/OECD)

Source: Sustainable Development Goal 6 - Synthesis Report on Water and Sanitation (2018), Table 1

## ANNEX 2: The human rights to water and sanitation and the right to a healthy environment compared

Table 1: Comparison of the human rights principles

Principles of the Human Right to a Healthy Environment (from Framework Principles)	Principles of the Human Rights to Water and Sanitation (from General Comment No.15)
<b>Human Rights</b>	
<p>Principle 1. States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights.</p>	<p>GC 1. Water is a limited natural resource and a public good fundamental for life and health. The human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.</p> <p>GC 20. The right to water, like any human right, imposes three types of obligations on States parties: obligations to respect, obligations to protect and obligations to fulfil.</p>
<b>Sustainable environment</b>	
<p>Principle 2. States should respect, protect and fulfil human rights in order to ensure <u>a safe, clean, healthy and sustainable environment</u></p>	<p><i>Respect:</i> GC 21: The obligation to <i>respect</i> requires that States parties refrain from interfering directly or indirectly with the enjoyment of the right to water. The obligation includes, inter alia, refraining from engaging in any practice or activity that denies or limits equal access to adequate water; arbitrarily interfering with customary or traditional arrangements for water allocation; <u>unlawfully diminishing or polluting water</u>, for example through waste from State-owned facilities or through use and testing of weapons; and limiting access to, or destroying, water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.</p> <p><i>Protect:</i> GC 23. The obligation to <i>protect</i> requires States parties to prevent third parties from interfering in any way with the enjoyment of the right to water. Third parties include individuals, groups, corporations and other entities as well as agents acting under their authority. The obligation includes, inter alia, adopting the necessary and</p>

	<p>effective legislative and other measures to restrain, <u>for example, third parties from denying equal access to adequate water; and polluting and inequitably extracting from water resources, including natural sources, wells and other water distribution systems.</u></p> <p><i>Fulfill:</i> GC26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. ... and facilitating improved and <u>sustainable access to water, particularly in rural and deprived urban areas.</u></p> <p>GC.11. The manner of the realization of the right to water must also be <u>sustainable, ensuring that the right can be realized for present and future generations.</u></p>
<p><b>Non-Discrimination</b></p>	
<p>Principle 3. States should <u>prohibit discrimination</u> and ensure equal and effective protection against discrimination in relation to the enjoyment of a safe, clean, healthy and sustainable environment.</p>	<p>GC. 15. With respect to the right to water, States parties have a special obligation to provide those who do not have sufficient means with the necessary water and water facilities and <u>to prevent any discrimination</u> on internationally prohibited grounds in the provision of water and water services.</p>
<p><b>Safety and freedom of expression</b></p>	
<p>Principle 4. States should provide <u>a safe and enabling environment</u> in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence</p>	<p>GC, 44,b Violations of the obligation to protect follow from the failure of a State to <u>take all necessary measures to safeguard persons</u> within their jurisdiction from infringements of the right to water by third parties.</p>
<p>Principle 5. States should respect and protect the rights to freedom of expression, association and peaceful assembly in relation to environmental matters.</p>	

Public Awareness and education	
<p>Principle 6. States should provide for <u>education and public awareness on environmental matters.</u></p>	<p>GC, 25. The obligation to fulfil can be disaggregated into the obligations to facilitate, promote and provide. The obligation to promote obliges the State party to take steps to ensure that there is <u>appropriate education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.</u></p> <p>Article 24, para. 2, of the Convention on the Rights of the Child requires States parties to “To ensure that <u>all segments of society [...] have access to education and are supported in the use of basic knowledge of [...] the advantages of [...] hygiene and environmental sanitation.</u>”</p>
Access to Information	
<p>Principle 7. States should provide <u>public access to environmental information</u> by collecting and disseminating information and by providing affordable, effective and timely access to information to any person upon request.</p>	<p>GC 48. The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people's participation. The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water. <u>Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.</u></p>
Accountability	
<p>Principle 8. To avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.</p>	<p>56. Before any action that interferes with an individual's right to water is carried out by the State party, or by any other third party, the relevant authorities must ensure that such actions are performed in a manner warranted by law, compatible with the Covenant, and that comprises: (a) opportunity for genuine consultation with those affected; (b) timely and full disclosure of information on the proposed measures; (c) reasonable notice of proposed</p>



	<p>actions; (d) legal recourse and remedies for those affected; and (e) legal assistance for obtaining legal remedies</p> <p>GC 24. Where water services (such as piped water networks, water tankers, access to rivers and wells) are operated or controlled by third parties, States parties must prevent them from compromising equal, affordable, and physical access to sufficient, safe and acceptable water. To prevent such abuses an effective regulatory system must be established, in conformity with the Covenant and this General Comment.</p>
<b>Public Participation</b>	
<p>Principle 9. States should provide for and facilitate <u>public participation in decision-making related to the environment</u> and take the views of the public into account in the decision-making process.</p>	<p>GC 48. The formulation and implementation of national water strategies and plans of action should respect, inter alia, the principles of non-discrimination and people's participation. <u>The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water.</u> Individuals and groups should be given full and equal access to information concerning water, water services and the environment, held by public authorities or third parties.</p>
<b>Remedies</b>	
<p>Principle 10. States should provide for <u>access to effective remedies for violations</u> of human rights and domestic laws relating to the environment</p>	<p>55. Any persons or groups who have been denied their right to water should have <u>access to effective judicial or other appropriate remedies</u> at both national and international levels</p>
<b>Standards and Indicators</b>	
<p>Principle 11. States should establish and maintain <u>substantive environmental standards</u> that are non-discriminatory,</p>	<p>53. To assist the monitoring process, <u>right to water indicators should be identified in the national water strategies or plans of action.</u> The indicators</p>

<p>non-retrogressive and otherwise respect, protect and fulfil human rights.</p>	<p>should be designed to monitor, at the national and international levels, the State party's obligations under articles 11, paragraph 1, and 12. Indicators should address the different components of adequate water (such as sufficiency, safety and acceptability, affordability and physical accessibility), be disaggregated by the prohibited grounds of discrimination, and cover all persons residing in the State party's territorial jurisdiction or under their control.</p>
<p><b>Violations</b></p>	
<p>Principle 12. States should ensure the effective enforcement of their environmental standards against public and private actors.</p>	<p>GC 55. All victims of violations of the right to water should be <u>entitled to adequate reparation</u>, including restitution, compensation, satisfaction or guarantees of non-repetition. National ombudsmen, human rights commissions, and similar institutions should be permitted to address violations of the right.</p>
<p><b>International Cooperation</b></p>	
<p>Principle 13. States should cooperate with each other to establish, maintain and enforce effective international legal frameworks in order to prevent, reduce and remedy transboundary and global environmental harm that interferes with the full enjoyment of human rights.</p>	<p>GC 30. Article 2, paragraph 1, and articles 11, paragraph 1, and 23 of the Covenant require that States parties recognize the essential role of international cooperation and assistance and take joint and separate action to achieve the full realization of the right to water.</p> <p>GC 38. For the avoidance of any doubt, the Committee wishes to emphasize that it is particularly incumbent on States parties, and other actors in a position to assist, to provide international assistance and cooperation, especially economic and technical which enables developing countries to fulfil their core obligations indicated in paragraph 37 above.</p>
<p><b>Non-Discrimination</b></p>	
<p>Principle 14. States should take additional measures to <u>protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm,</u></p>	<p>16. Whereas the right to water applies to everyone, States parties should give <u>special attention to those individuals and groups who have traditionally faced difficulties in exercising</u></p>

<p>taking into account their needs, risks and capacities.</p>	<p><u>this right</u>, including women, children, minority groups, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees.</p>
<p>Principle 15. States should ensure that they <u>comply with their obligations to indigenous peoples</u> and members of traditional communities, including by:</p> <ul style="list-style-type: none"> <li>a. Recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used.</li> <li>b. Consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources.</li> <li>c. Respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories, and resources.</li> <li>d. (d) Ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories, or resources.</li> </ul>	<p>GC 7. The Committee notes the importance of ensuring sustainable access to water resources for agriculture to realize the right to adequate food (see General Comment No.12 (1999)). Attention should be given to <u>ensuring that disadvantaged and marginalized farmers, including women farmers, have equitable access to water and water management systems, including sustainable rain harvesting and irrigation technology.</u> Taking note of the duty in article 1, paragraph 2, of the Covenant, which provides that a people may not “be deprived of its means of subsistence”, States parties should ensure that there is <u>adequate access to water for subsistence farming and for securing the livelihoods of indigenous peoples.</u></p> <p>GC 16 (d) 16... In particular, States parties should take steps to ensure that:</p> <p>...(c) Rural and deprived urban areas have access to properly maintained water facilities. Access to traditional water sources in rural areas should be protected from unlawful encroachment and pollution. Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status; (d) <u>Indigenous peoples’ access to water resources on their ancestral lands is protected from encroachment and unlawful pollution. States should provide resources for indigenous peoples to design, deliver and control their access to water;</u> (e) Nomadic and traveler communities have access to adequate water at traditional and designated halting sites; (f) Refugees, asylum-seekers, internally displaced persons and returnees have access to adequate water whether they stay in camps or in urban and rural areas. Refugees and asylum-seekers should</p>

	<p>be granted the right to water on the same conditions as granted to nationals;</p>
<p>Sustainability</p>	
<p>Principle 16. States should respect, protect and fulfil human rights in the actions they take to <u>address environmental challenges and pursue sustainable development.</u></p>	<p>11. The elements of the right to water must be adequate for human dignity, life and health, in accordance with articles 11, paragraph 1, and 12. The adequacy of water should not be interpreted narrowly, by mere reference to volumetric quantities and technologies. Water should be treated as a social and cultural good, and not primarily as an economic good. The manner of the realization of <u>the right to water must also be sustainable, ensuring that the right can be realized for present and future generations.</u></p> <p>26. The obligation to fulfil requires States parties to adopt the necessary measures directed towards the full realization of the right to water. The obligation includes, inter alia, according sufficient recognition of this right within the national political and legal systems, preferably by way of legislative implementation; adopting a national water strategy and plan of action to realize this right; ensuring that water is affordable for everyone; <u>and facilitating improved and sustainable access to water</u>, particularly in rural and deprived urban areas.</p>