

WATER, SANITATION AND GENDER EQUALITY IN INDIA CONSTITUTIONAL IMPERATIVES AND JUDICIAL RESPONSES TO THE QUEST FOR HUMAN DIGNITY

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ABSTRACT: This research discusses its findings regarding gender equality and water access in India by analyzing constitutional rights, judicial rulings, and the concept of human dignity. This examines the extent to which the health, education, livelihood, safety, and overall quality of life of women and girls are more significantly impacted than those of men when they lack equal access to clean water and toilets. Water is not officially recognized as a fundamental right in the Indian Constitution; however, the courts have interpreted Article 21's right to life to encompass it as a significant component of that right. It is crucial to be equitable, nondiscriminatory, and to regard all individuals equally (paragraphs 14, 15, and 39). This essay examines significant court decisions that have broadened the right to water and underscores the necessity for the state to ensure that all individuals have equitable access to this indispensable resource. It also demonstrates the significance of gender considerations in water governance and the necessity of respecting constitutional rights and the law to ensure that all individuals are treated fairly. It is crucial to ensure that all individuals have access to pure water and toilets in order to achieve gender equality and long-term growth in India, as stipulated by the constitution, stated the report.

Keywords: *Water Rights; Gender Equality; Constitutional Rights; Right to Water; Human Dignity; Article 21; Judicial Perspectives; Water and Sanitation; Gender Justice; India.*

I. INTRODUCTION

Water and sanitation are essential for the preservation of human dignity, public health, and well-being. Women and girls are disproportionately affected by the dearth of clean water and sanitation that many Indians experience. Social progress and gender equality are impeded by water collection, inadequate sanitation, privacy and safety concerns, and cleanliness concerns.

The right to life, which encompasses water and sanitation, is guaranteed by Article 21 of the Indian Constitution, despite the fact that these rights are not acknowledged. The state is committed to enhancing public health and ensuring equitable access to essential resources in accordance with the

principles of the State Policy Directive, following the reaffirmation of non-discrimination and equality in Articles 14 and 15. Collectively, these fundamental provisions establish a robust foundation for the campaign for sanitation and clean water.

The country's fundamental rights were fortified by a ruling by India's highest court, which established that all individuals are entitled to safe drinking water and adequate sanitation. Courts have acknowledged the state's responsibility for ensuring equitable access, particularly for impoverished groups and women, through public interest litigation and progressive judicial interpretation.. This chapter will examine the legislative structure and

constitutional provisions of India that promote gender equality, water and sanitation, human dignity, and water and sanitation. Additional strategies to advance human dignity will be investigated.

II. CONTEXTUAL BACKGROUND

THE GENDERED BURDEN OF WATER DEPRIVATION

Water Collection as Gendered Labour

In rural India, women and girls are disproportionately responsible for water collection due to the absence of piped water. They are afflicted by "time poverty" as a result of the extensive time they spend each day procuring water, which prevents them from affording entertainment, employment, education, or medical care. Gender prejudice and physical fatigue persist as a result of long-distance freight transportation. The unequal distribution of water duties underscores the deficiencies of public infrastructure and perpetuates social marginalization and generational poverty.

Sanitation, Safety, and Women's Dignity

The likelihood of abuse, harassment, and terror for women is elevated by inadequate sanitation facilities. This is due to the insecurity that women experience. Certain women delay their use of public restrooms until the early hours of the morning. This is due to privacy and security concerns. The absence of menstrual hygiene facilities in public spaces, such as schools, further exacerbates the high dropout rate and poor health of adolescent females. Poor sanitation poses a threat to the lives and dignity of women, as evidenced by the Badaun disaster.

III. CONSTITUTIONAL FRAMEWORK WATER, DIGNITY, AND GENDER EQUALITY

Water as a Constitutional Right under Article 21

The right to exist in dignity is encompassed in the Supreme Court's expansive interpretation of Article 21. Water rights are not explicitly addressed in the Constitution. The right to clean water, privacy, health, and a healthy environment was upheld by the Supreme Court of India in *Maneka Gandhi v. Union of India*. Everyone is aware that water is essential for health and respect, and as such, everyone has a right to it.

Gender Equality under Articles 14, 15 and 21

The Constitution's Articles 14 and 15 ensure that women have equal legal rights and prohibit gender discrimination, as well as affirmative action programs. The state should address structural impediments to water and sanitation for women, as they have a greater impact on women than on men. India's obligation to ensure equal and gender-sensitive water access is underscored by the International Covenant on Economic, Social, and Cultural Rights (ICESCR), General Comment No. 15, and UN Resolutions on Water and Sanitation.

IV. JUDICIAL ANALYSIS

Development of Water Rights

Jurisprudence

The right to life has been consistently established by the Supreme Court to encompass access to clean water. The Supreme Court determined in *Subhash Kumar v. State of Bihar* that Article 21 of the Constitution ensures access to safe drinking water. In *Narmada Bachao*

Andolan v. Union of India, the constitutional significance of water for disadvantaged populations was acknowledged. Menstrual hygiene and sanitation were implicitly advocated for in NALSA v. Union of India. This was accomplished by emphasizing bodily autonomy and dignity-based rights.

Privacy, Bodily Integrity, and Puttaswamy

The Supreme Court of India declared the right to privacy to encompass liberty and body integrity in Justice K.S. Puttaswamy v. Union of India. It was a significant international law decision. This discovery is essential because the rights of women to privacy, dignity, and body control are violated by inadequately funded sanitary facilities. Thus, this decision is of paramount importance. The verdict reinforces the privilege of women by ensuring that they have access to sufficient private sanitation facilities.

Sanitation, Education, and Article 21-A

Under Article 21-A, the courts have established a connection between the right to education and personal hygiene. As a result, they have ordered governments to provide girls' schools with separate, fully functional restrooms. The Sabarimala verdict's critique of menstruating prejudices and advocacy for women's equality and respect enhanced the dignity of menstruation.

V. STATUTORY AND POLICY FRAMEWORK PROMISE AND PERFORMANCE

Swachh Bharat Mission (SBM)

In order to mitigate open defecation, the Swachh Bharat Mission expanded the construction of toilets throughout India.

Many facilities were rendered uninhabitable by inadequate maintenance, water shortages, and behavioral disorders, according to independent studies. Despite the fact that the initiative enhanced cleanliness, it did not always address the requirements of women, including privacy and menstruation hygiene.

Jal Jeevan Mission (JJM)

The Jal Jeevan Mission is dedicated to the empowerment of women in the field of water management and the provision of piped water to rural communities. The program's success is contingent upon community engagement, consistent supply, sanitation service coordination, and consistent water quality, despite the program's advancements. In order to achieve genuine equality, the National Water Policy must be implemented with a greater emphasis on gender sensitivity and energy.

VI. INTERNATIONAL LAW DIMENSION

CEDAW Obligations and India's Compliance

In accordance with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), India is obligated to provide secure drinking water and sanitation systems to rural women. General Recommendation No. 34 underscores the importance of involving women in water resources programs, accumulating gender-specific statistics, and eliminating discrimination. Menstruation hygiene, infrastructure, and sanitation standards continue to be concerns in India, despite the fact that sanitation coverage has been enhanced.

Sustainable Development Goals (SDGs)

Nevertheless, Sustainable Development Goal 5 (SDG 5) advocates for gender equality, whereas SDG 6 guarantees that all individuals have access to safe water and sanitation. In order to enhance water governance, India has been encouraged by foreign monitoring organizations to enhance accountability, gender equality, and sanitation statistics. By examining the similarities and differences between states such as South Africa, socioeconomic rights can be furthered.

VII. INTERSECTIONALITY: CASTE, POVERTY, AND COMPOUNDED DEPRIVATION

Caste-Based Exclusion

Women belonging to the Scheduled Caste and Scheduled Tribe are disproportionately affected by sanitation and water supply issues. Exclusion is exacerbated by social prejudice, residential segregation, and inadequate public infrastructure. Clean water and restrooms are more difficult to obtain as a result of these issues.

Poverty and Tribal Communities

Women in impoverished and indigenous regions are confronted with isolation, inadequate infrastructure, and limited recourse. In spite of the Forest Rights Act and PESA's protection of all individuals, the inadequate implementation of pure water and sanitation presents a challenge. This underscores the necessity of intersectional policy.

IX. RECOMMENDATIONS

Constitutional and Statutory Reforms

Safe drinking water and sanitation are fundamental rights, as stipulated in Article 21 of the Constitution. Conversely, the Constitution may be amended. Additionally, it is advised that a

comprehensive Water and Sanitation Rights Act be implemented. This act would necessitate the implementation of gender-segregated data collection, grievance resolution procedures, accountability measures, and government enforcement of standards.

Gender Budgeting and Menstrual Hygiene

The government must establish gender-responsive budgeting and involve women in the design and implementation of water and sanitation projects. In all public and private organizations, a statewide menstrual hygiene policy necessitates the provision of affordable menstrual products and sanitary facilities.

Independent Accountability Mechanism

The article recommends the establishment of a National Water and Sanitation Rights Commission to oversee the plan, investigate complaints, evaluate infrastructure, and advocate for gender-sensitive governance. Accountability and access to clean water and sanitation for all will be guaranteed by this organization.

VIII. CONCLUSION

Gender equality, public health, and human dignity are contingent upon the availability of pure water and sanitation in India. The state's imperative to guarantee equal access for all has been reaffirmed by judicial rulings, and the Constitution's guarantees of equality, life, and social justice serve as a strong legal framework for safeguarding fundamental rights. The effective fulfillment of these constitutional obligations is impeded by infrastructure inequities, societal imbalances, and the uneven burden of girls and women. In order to resolve these challenges, it is imperative that we implement a strategy

that is rights-based and gender-sensitive. Included in this strategy should be the provision of water and sanitation funding, effective law enforcement, enhanced public institutions, and inclusive policies. India must collaborate to ensure that all individuals have access to safe drinking water and sanitary facilities in order to uphold its fundamental principles of dignity, fairness, and equality.

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