

## PERSONS WITH DISABILITY AND THEIR RIGHT TO SANITATION

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### ABSTRACT

*Access to safe and clean water and sanitation facilities is a basic right of all people, including people with disabilities, the denial of which can have serious implications on their well-being. The access to clean water and basic sanitation is a right also guaranteed under the UN Convention on the Rights of Persons with Disabilities. The Constitution of India also ensures equality, freedom, justice and dignity of all individuals and implicitly mandates an inclusive society for all including persons with disabilities. The new Swachh Bharat Mission, while focusing on universal sanitation coverage, is also looking at better ways of addressing needs of Persons with Disabilities. Sanitation and hygiene programs need to be evaluated to understand if they are really accessible for all including persons with disabilities. This paper will attempt to review the condition of access to water and sanitation for persons with disabilities from the perspective of international developments.*

**Keywords:** Access, Disability, Sanitation, Disable person

### INTRODUCTION

Sanitation is a very personal and private matter of every individual which is directly connected with human dignity. The world Individual also includes persons with disabilities. Disabled people are a part of every community, everywhere in the world. They are among the poorest, most marginalised and disadvantaged person, and are often hidden. In the recent years, there have been vast and positive changes in the perception of the society towards persons with disabilities. Globally, this is underlined by the Sustainable Development Goal 6, which ensure access to water and sanitation to all by 2030. The World Disability Report estimates that 15% of

the world's population are disabled,<sup>i</sup> of whom 2-4% experience significant difficulties in functioning. Presumably, if persons with disabilities make up 15% of the world's population, then they also comprise roughly 15% of all those reflected in such statistics. Over 500 million people in the world are disabled, the majority of whom live in poverty in low-income communities. A major contributing factor to the poverty of disabled people is their lack of access to sanitation and safe water.<sup>ii</sup> In developing countries there is a massive shortfall of sanitation facilities in general and in particular of facilities which are accessible to all—including persons with disabilities. This is despite the fact that 15% of the world's population lives with some kind of disability. The majority of these persons with disabilities live in

developing countries (80%). They are among the poorest, most vulnerable and marginalised groups. In 2011, the first ever world report on disability has been published by the World Health Organization and the World Bank (2011). It appears that until now disabled people have typically been excluded from interventions and research around WASH.<sup>iii</sup> According to World Report on Disability by WHO and World Bank (2011) 1 billion people with disabilities worldwide and rates of disability are increasing due to population ageing, increases in chronic health conditions and other factors.<sup>iv</sup> Consequently, the new SDG will not be met unless access to WASH is improved for disabled people. International agreements such as the UN Convention on the Rights of Persons with Disabilities have ushered in considerable awareness concerning the diverse needs of persons with disabilities.

The Convention on the Rights of Persons with Disabilities does not provide a definition of disability, but it provides a broad description which is widely inclusive. The UN defines persons with disabilities as persons with long-term impairments who face various barriers that hinder their full participation in society. The impairments can be from birth or acquired, temporary or permanent. They can be physical, sensory (i.e. visual, hearing), mental or intellectual impairments. People can become impaired through accidents, wars, natural disasters, diseases and old age. Some of these diseases are caused by malnutrition or the lack of hygiene, sanitation and safe water. Therefore accessibility should always be considered even if no person with disabilities is currently known to live in the community.<sup>v</sup> The definition of 'disabled' used here is of general in nature. The World Health Organization defines Disability as "Disabilities is an umbrella term, covering impairments, activity limitations, and participation restrictions. Impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. Thus disability is a complex phenomenon,

reflecting an interaction between features of a person's body and features of the society in which he or she lives.

A sea-change in disability awareness is now underway. The issue of disability is now firmly established as a human rights issue by the enforcement of the United Nation Convention on the Rights of Persons with Disabilities. Article 3 of the Convention says about the principle of "Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity". It marks a positive approach towards persons with disabilities. After that the Human Rights Council also adopted a resolution in late 2010 by affirming that access to safe drinking water and sanitation is a human right for all people, including those who are disabled. The lack of accessible sanitation facilities can create humiliating situations because it deprives disabled person from their most basic and private needs.

The Constitution of India ensures equality, freedom, justice and dignity of all individuals. The golden promise of a life with dignity for everyone enshrined under the Constitution of India cannot be fully realised without addressing the issues of water, sanitation and hygiene. Access to safe and clean water and sanitation facilities is a basic Human Right of all people, including people with disabilities, the denial of which can have serious implications on them and their wellbeing.<sup>vi</sup> The impact of disability is felt by persons with disabilities themselves and also by their family members because it often creates a high work load and dependency which leads to vulnerability, loss of income, compromised health and risk of poverty.<sup>vii</sup> It has been realized that a majority of persons with disabilities can lead a better quality of life if they have equal opportunities, facilities and effective access to rehabilitation measures.

## WHAT STOPS PERSONS WITH DISABILITIES FROM ACCESSING SANITATION FACILITIES<sup>viii</sup>

Disability and sanitation are related to poverty. The link between poverty, disability and access to water and sanitation resources, particularly in communities with improving economic resources, needs to be considered. Households in the poorest wealth quintile are also 5.5 times more likely to lack access to an improved water source and 3.3 times more likely to lack adequate sanitation compared with the highest wealth quintile in the same country. Disabled people and their families tend to be among the poorest of the poor because of factors including:

- Lack of education
- Limited job opportunities
- Reduced family income because of caring for a dependant
- Increased medical expenditure

Issues preventing disabled people from accessing water and sanitation in developing countries may vary depending on cultural and geographical contexts, as well as by the type of disability a person may have. Thus a person with a physical impairment may face significantly more difficulties in using a hand pump or an outdoor latrine, a person who is deaf or who has an intellectual disability may have no physical difficulty in walking to a community latrine, but be teased or abused and thus find such a facility inaccessible for social and safety reasons.

Barriers to accessing sanitation facilities extend far beyond physical infrastructure and include also institutional or organisational factors, human behaviour and social attitudes. Social attitudes vary according to the cultural context and a person's type of impairment. Barriers can broadly be classified into two types:

## PHYSICAL INFRASTRUCTURE BARRIERS

Technical barriers include the structural difficulties faced by persons with disabilities in accessing water and sanitation facilities. Some issues are as following:

- Family has no toilet, nearest toilet is far away, open defecation is widespread.
- Stairs or steps to access sanitation facilities; for example some toilet structures are raised to prevent flooding or to provide better access to faeces vaults.
- Lack of support bars in latrines for people who have difficulties holding themselves in a sitting or squatting position.
- Narrow toilet cubicles or narrow entrances.
- Toilet cubicles are dark with no natural light, missing lights or inaccessible light switches.
- Doors are too heavy or cannot be closed by a wheelchair user.
- Handles and handrails inside are either non-existent, too high or too low.
- Floors are uneven or slippery.
- Inaccessible water sources for toilet flushing in the case of pour-flush toilets, and for showering, bathing and hand washing.

This is noticeable point that many of the technical barriers faced by persons with disabilities are also faced by pregnant women, the elderly, children and others.

## SOCIAL AND ATTITUDINAL BARRIERS

- Lack of knowledge and understanding as well as negative attitudes of family members, teachers, maintenance staff, engineers and architects.
- People with disabilities are often hidden from view and are usually not accustomed to expressing their needs.
- Children with disabilities often do not attend school because of prejudice, discrimination or overprotection.

- Non-respect of privacy since people with disabilities depends on assistance if sanitation facilities are not easily accessible.
- Remote sanitation facilities or the paths to such facilities can be areas where girls and women with disabilities are put at risk of molestation and sexual violence.

Sanitation projects need to go beyond technical solutions and address attitudinal and institutional barriers to accessible sanitation. An explicit recognition of the right to sanitation within national and international laws and conventions can help to prioritise inclusive sanitation and hygiene as a right for all.

## INTERNATIONAL COMMITMENTS TO FACILITATE SANITATION FOR PERSONS WITH DISABILITY

Human rights are rooted in the recognition of the inherent dignity and equal worth of all human beings. Every person is equally entitled to the fundamental rights enshrined in the Universal Declaration of Human Rights (1948), and the subsequent human rights treaties, such as the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of all Forms of Discrimination against Women (1979) or the Convention on the Rights of the Child (1989). These binding treaties impose obligations on State parties to respect, protect and fulfil human rights.

The needs of disabled people in developing countries are consistently overlooked when it comes to providing sanitation and hygiene services. This reality has severe and widespread consequences for the health, dignity, education and employment of disabled people and their caregivers. The critical importance of unrestricted access to clean drinking water and basic sanitation for all is highlighted in Millennium Development Goal 7, which calls for the reduction by half of the proportion of people without such access by 2015. The Millennium

Development Goals of poverty reduction, health and access to safe water and sanitation will be difficult to achieve equitably without addressing the access needs of disabled people. India has made some progress and is on track towards achieving the Seventh Millennium Development Goal of ensuring sustainable access to safe drinking water and sanitation. The overall proportion of households having access to improved water sources increased from 68.2 percent in 1992-93 to 90.6 percent in 2011-12. However India, which is one of the most densely populated countries in the world, has not recorded similar progress in improving sanitation facilities over the last decade. Therefore, progress is slow for the sanitation coverage indicator.

In order to decrease global inequalities, the Sustainable Development Goals (SDGs) aim to provide access to improved sanitation and improved water sources to all by 2030. This will require services to be delivered to the hardest to reach, the poorest and those whose water, sanitation and hygiene (WASH) needs are currently not addressed by mainstream programming. In this respect UNICEF<sup>ix</sup> plays an important role with an aims to meet the basic needs, increase self-reliance of individuals, and provide opportunities for disabled persons to contribute to the family and community. This aim can only be achieved by monitoring, evaluating and reporting of WASH programs with a specific attention to people with disabilities so that appropriate steps can be taken to fulfil the rights of people with disabilities in WASH programmes.

The WHO global disability action plan 2014-2021 is a significant step towards achieving health and well-being and human rights for people with disabilities. The action plan was endorsed by WHO Member States in 2014 and calls for them to remove barriers and improve access to health services and programmes; strengthen and extend rehabilitation, assistive devices and support services, and community-based rehabilitation; and enhance collection of relevant and internationally comparable data on disability, and research on disability and related services. Achieving the objectives of the

action plan better enables people with disabilities to fulfil their aspirations in all aspects of life.<sup>x</sup>

## UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD), 2006

The UN Convention on the Rights of Persons with Disabilities (2006) is the first human rights instrument to deal explicitly and systematically with the human rights of persons with disabilities. The CRPD was adopted by the UN General Assembly on 13 December 2006 and entered into force on 3 May 2008. As of October 2012, 125 countries had ratified it and 154 had signed it.

The convention fosters a new understanding of disability: "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others" (Art.1). Whereas in the past, the focus was on the impairments of persons (medical model of disability), the understanding is now widened and comprises the barriers persons with disabilities encounter (social model of disability).

The convention not only stipulates that persons with disabilities are to be enabled to live independently and participate fully in all aspects of life but defines accessibility to public facilities, services and information as a human right.<sup>xi</sup> The access to clean water and basic sanitation is a right also guaranteed under the UN Convention on the Rights of Persons with Disabilities. Article 28 in the Convention focuses on the right of persons with disabilities "to an adequate standard of living for themselves and their families; this includes State Parties duty to ensure equal access to clean water services". Furthermore, the convention addresses global cooperation to 'ensure that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities'.<sup>xii</sup>

UN Convention on the Rights of Persons with Disabilities has concerning the diverse needs of persons with disabilities. Interventions at various levels have shown how inclusive design can be inexpensive and benefit pregnant women, older people and the chronically ill as well as disabled people. It is rather very unfortunate that despite certain measures there is still considerable lack of adequate facilities. Lack of inclusive facilities have forced disabled people often engage in unhygienic and dangerous practices; for example wheelchair users are forced to crawl on the floor of latrines, others defecate in the open to avoid the discrimination associated with using public toilets, and disabled people may also restrict their intake of food and water to avoid needing to go to the toilet.

India ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in the year 2007. The First Country Report which was due in 2009 was submitted by the Government of India in June, 2015. In 2009, the National Disability Network (NDN) and the National Committee on the Rights of Persons with Disabilities (NCRPD) initiated with respect to the implementation of the CRPD in India.

## RECOGNITION OF WATER AND SANITATION (HRWS) AS A HUMAN RIGHT

The Human Right to Water and Sanitation (HRWS) was recognised as a human right by the United Nations (UN) General Assembly on 28 July 2010.<sup>xiii</sup> The HRWS has been recognized in international law through human rights treaties, declarations and other standards. The Universal Declaration on Human Rights (UDHR) of 1948 and International Covenant on Economic Social and Cultural Rights (ICESCR) of 1966 implicitly recognized the HRWS. The first resolutions about the HRWS were passed by the UN General Assembly and the UN Human Rights Council in 2010.<sup>xiv</sup> They acknowledged that there was a human right to sanitation connected to the human right to water, since the lack of sanitation

reduces the quality of water downstream, so subsequent discussions have continued emphasising both rights together. A revised UN resolution in 2015 highlighted that the two rights were separate but equal.<sup>xv</sup>

Government of India has made proactive legislation to address the need of basic services for persons with disability. India is a signatory to the Declaration on the Full Participation and Equality of People with Disabilities in the Asia Pacific Region. India is also a signatory to the Biwako Millennium Framework for action towards an inclusive, barrier free and rights based society. India signed the UN Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities on 30th March, 2007, the day it opened for signature. India ratified the UN Convention on 1st October, 2008.

Much before the UN Convention, under Article 253 of the Constitution, the Government of India enacted "The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995", in the effort to ensure equal opportunities for persons with disabilities and their full participation in nation-building. The Constitution of India ensures equality, freedom, justice and dignity of all individuals and implicitly mandates an inclusive society for all including the persons with disabilities. The Constitution in the schedule of subjects lays direct responsibility of the empowerment of the persons with disabilities on the State Governments therefore, the primary responsibility to empower the persons with disability rests with the State Governments.

A multi-sectoral collaborative approach, involving all the appropriate Governments i.e. Ministries of the Central Government, the State Governments/ UTs, Central/State undertakings, local authorities and other appropriate authorities is being followed in implementation of various provisions of the Act. India has 2.68 crore disabled people in the country, as per the 2011 Census, including 41 lakh disabled in Uttar Pradesh, 30 lakh in Maharashtra and 23 lakh in Bihar. The PM also directed that the 'Accessible India' scheme should be

completed in "campaign mode" by the states and ministries to make offices, transport, government websites and systems accessible for the disabled.<sup>xvi</sup>

## CONCLUSION

Improved access to sanitation and health care for people with disabilities is not only a human right, but also a key to achieving better education, employment, caring for and participating in family, community and public life. Good health will lead to better overall socio-economic outcomes for people with disabilities. Disability is also a development issue, because of its bidirectional link to poverty: disability may increase the risk of poverty, and poverty may increase the risk of disability. Food insecurity, poor housing, lack of access to safe water and sanitation, and inadequate access to health care are the resulting factors of poverty. There should be a disability network to serve and uphold the rights. Positive changes in attitudes of society will help to support all kinds and ages of people with disabilities so that people with disabilities could achieve equality in society.

Disability is now understood to be a human rights issue. People are disabled by society, not just by their bodies. These barriers can be overcome, if governments, nongovernmental organizations, professionals and people with disabilities and their families work together. The new Government policy Swachh Bharat Mission (Gramin) is focusing on universal sanitation coverage and is also looking at better ways of addressing needs of Persons with Disabilities.

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