

Gist of EPW June Week 1, 2022

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1. Governing Water to Foster Equity and Conservation

Context:

This article discusses the need for new legal instruments for water governance in India.

Introduction

Water is a natural resource necessary for life and survival. Almost all basic human activities from domestic to industrial growth depend on its availability. Therefore, protecting and conserving water is imperative for this blue planet's survival itself. Given its importance, water has been at the central point of discussion, legislation, conflicts and litigations over the years. The future projections for the availability, equity and accessibility of clean water to the growing population as well as for the economic growth, demand a holistic approach to water regulation.

Water Law and Policy: The Landmarks

- The Water (Prevention and Control of Pollution) Act was enacted in 1974. It provides for the prevention and control of water pollution, and for the maintaining/restoring of the wholesomeness of water in the country. This Act was amended in 1988.
- The [Supreme Court of India](#) recognised the fundamental right to water in *Subhash Kumar v State of Bihar and Ors* 1991.
- The Supreme Court also ruled that water must be understood as a public trust in *M C Mehta v Kamal Nath and Ors* 1996.
- The privatization of water and the principle of no appropriation although has not been applied strictly by the courts in *Mrs Susetha v State of Tamil Nadu and Ors* 2006.
- A major reform initiated more than two decades ago was the constitutional mandate for the decentralization of water regulation to local bodies.
- In the past, some states/UTs have passed laws to take full control and ownership of water e.g. Jammu & Kashmir.

The challenges associated with the water sector

- No consonance between the centre and state on water laws and policies.
- Considering groundwater and surface water as separate entities while framing rules.
- Disputes between states sharing river waters due to historical and political reasons.
- The uneven distribution of water resources in the country where some states face floods and others droughts at the same time of the year.
- Absence of effective decentralization of water based on the constitutional mandates.
- Taking water conservation as solely a concept under the environment and lack of people's participation and awareness.
- The issue of access for the vulnerable sections of society is another persisting problem.

Also read: [Inter-state water disputes in India](#)

Why is there a timely need for reform?

- Water regulation and conservation must not remain a patchwork of state and central legislation.
- The majority of irrigation and drinking water is coming from groundwater which is depleting soon.
- Water laws and lawmakers need to see the different sectors using water as part of a whole.

New laws and institutions

- The Model Groundwater (Sustainable Management) Act, 2016 gives recognition of water, especially groundwater, as a local resource.
- It says that water should be governed by the local institutions that should have the primary rights and duties to do with it.
- The draft [National Water Framework Bill, 2016](#) builds on a version prepared by the Planning Commission and a version prepared earlier by the Ministry of Water Resources.
- A single institution, the National Water Commission (NWC) will address both surface and groundwater.

Beyond new legislation and proposed framework

- The first task would be to make sure that these initiatives take a concrete form as soon as possible as this is not the first time proposals for reform are initiated.
- The increasing severity and multiplicity of water crises affecting the country should ensure that action will indeed be taken and the proposed initiatives implemented.
- The states have the primary constitutional mandate and must consider their responsibility for water, the multiplicity of climatic conditions, socio-economic conditions, and various patterns of water use.

Way forward

Change in any sphere of public policy is not necessarily welcomed due to inertia. The water sector has vested interests and stakeholders should be held both accountable and made aware of the nuances. Sustainable Development Goal 6 which talks about "clean water and sanitation for all" must be kept in mind before framing any policy. It has the official wording: "Ensure availability and sustainable management of water and sanitation for all." Therefore it is our responsibility to use this precious resource in a way that it remains available to future generations as well.

2. State and Health Markets in the Time of Pandemic

Context:

This article explains the role of public healthcare systems in ensuring health equality in India.

Introduction:

While COVID-19 showed the fault lines across the world, countries like India, lacking a strong public health system and equal access to resources were the worst affected. It has unsecured the futures of millions in India. The push towards privatization and corporatization of healthcare, shedding responsibilities, has shown the apathy on part of the governments without concern for its wider repercussions on the poor and vulnerable population from the smallest, remotest and inaccessible parts of the nation.

Drastic times, drastic measures and devastating outcomes

- The lockdowns, containment, segregation, and quarantine, did control [COVID-19](#) initially but millions of migrants suffered and died, not due to the virus but the failure of the state in providing basic entitlements.
- The second wave was so devastating that it was termed the worst humanitarian and public health crisis in post-independence India.
- The COVID-19 experience revealed how the changing stance of the government in recognising that it was not a "one-time disaster" but rather an ongoing pandemic played havoc.
- It highlighted the need for the state to spend more on medical infrastructure, and juggling with the "welfare agenda" and privatization of health services will not help in future.
- The state-market nexus and the role of civil society organizations in producing the counter-narrative were followed by the state's call for just a neo-liberal regulatory role with negative ramifications.

State of facts on India's healthcare system

- India's health system has four-fifths of all the healthcare expenditure as private.
- It is plagued with a shortage of human power, low public health expenditure (approx 1% of the GDP), highest out-of-pocket expenditure, and regional disparity.
- We saw population growth of 13.25% but the joint public health expenditure of both the central and state governments grew by only 0.39% during the last decade.
- From 1947 to the 1970s, our health policy was guided by the principle of the John Bhole Committee recommendations.
- From the late 1970s, tertiary care over primary healthcare was paid attention to, leading to the privatization of health services.
- We are a signatory to the comprehensive primary healthcare approach as part of the Alma-Ata Declaration in 1978.
- However, selective, target-oriented, vertical "national health programmes" were focused on one disease at a time, by the early 1980s.
- The 1990s liberalization marked a prominent shift towards enhanced commercialisation and opening the health sector to more private investment.
- In the post-2000s, states' intervention in healthcare was restricted to funding, contracting, and negotiating with private providers, rather than providing health services.

The privatization of healthcare in the millenium

- In the late 1990s, significant changes happened and hospitals were set up as private and public limited companies.
- The first private investment was in 1999 by the United Kingdom-based global asset management company Schroder Ventures in Indraprastha Medical Corporation Ltd.
- Following years saw a plethora of such deals and funding from across the globe and agencies.
- The Central Government Health Scheme's (CGHS) inclusion of corporate hospitals further contributed to the supply of almost 30% of the patients to corporate hospitals, fuelling the growth.
- Around the same time, 100% foreign direct investment ([FDI](#)) route in the hospital sector, pharmaceuticals (greenfield projects) and the manufacture, and third-party administrators were allowed.
- The insurance market got a boost from Rashtriya Swasthya Bima Yojana (RSBY), [Pradhan Mantri Jan Arogya Yojana](#) (PMJAY), and several similar state schemes.
- National Health Authority (NHA) was created under the NITI Aayog in 2019 with the explicit purpose of managing PMJAY.
- The National Rural Health Mission (NRHM) launched in 2005 was intended to actualise comprehensive primary healthcare and provide accessible, affordable, quality healthcare to rural populations, especially vulnerable groups.

- Civil society did, from time to time, raise the voice of dissent and advocated the right to health, decentralization of services, gender equity, access to medicines, etc.

Emerging trends from the growing state–market nexus in healthcare

- The starting investments of upper and intermediate castes in hospitals, medical colleges, pharmaceuticals, and diagnostics are taken over by multinational companies.
- The cost of treatment increased from 5% every year in the 1980s and 1990s to 20%–25% in the 2020s.
- Smaller private hospitals with below 40 beds are losing out and about 20% already closed operations during 2019–21.
- Charity hospitals in metros have tied up with for-profit hospitals.
- Flexible labour markets and contractualisation of staff, with lower wages and poor working conditions.
- Accredited social health activists (ASHAs), belonging to Dalits and Other Backward Classes are not treated as staff and are paid poor wages due to social hierarchy.

Problems of Healthcare during the Pandemic

- Overcrowding crumbled the system during COVID-19, the private and corporate sector with 73% inpatient facilities handled less than 10% of the total COVID-19 cases.
- About 75% experienced overcharging compared to the official rates even after the state's warning and capping.
- Despite insurance schemes such as Corona Rakshak and Corona Kavach being offered, around 43.5% of the medical cost was paid from their own pockets.
- ICMR had to collaborate with a private vaccine manufacturer Bharat Biotech for the production of Covaxin.

From government to governance

- A “neo-liberal regulatory state,” which emerged as part of the wider shift, has diminished the state's ability to address basic healthcare (Jones and Hameiri 2021; Caduff 2021; Braithwaite 2021).
- The implementation and compliance burden shifted away from the state agencies toward the entities being regulated.
- Now “client-operator contractualism” prevails under the government system with public bodies becoming “negotiators, rather than providers.”

Major trends and impacts of the pandemic

- The COVID-19 exception led to the bypassing of the National Disaster Response Fund by the Prime Minister's Citizen Assistance and Relief in Emergency Situations ([PM CARES](#)) Fund, a public charitable trust. On top, it is neither answerable nor accountable to the public.
- Passed three new [labour codes](#) where the government minimizes its regulatory role and responsibility.
- Three farm laws in agriculture and commodification of land and labour for the urban capital were passed in haste.
- The upper and middle classes realized individual vulnerability and fear like the lower classes.

Conclusion

COVID-19 pandemic provided concrete examples to the world and especially to India of the need to strengthen public healthcare. Shifting responsibilities and changing stances do not always help. Data and warnings from the health agencies need to be paid heed to before becoming complacent on little achievements. India cannot afford another pandemic or even a wave of the current one. Privatization and corporate culture may not be suitable in every public affair in billion-plus population countries during testing times. We do need regulations and learn to accept the mistakes to not commit them again.

Way forward

Identify vulnerability based on models, data and figures and apply a bottoms-up approach in healthcare. Best practices must be adopted from around the globe and don't become pseudo-self-sufficient. Investment as a major percentage of GDP needs to be done in the public good such as healthcare. Capacity building of PSUs along with phased privatization is the way to go. When such a pandemic hits it poses problems for the management of law and order, corruption issues and general administration. Therefore we need a holistic approach to deal with our complex issues concerning a large section of the population.

3. State of Inequality in India

Context: Recently, '*The State of Inequality in India*' report was released by the Institute for Competitiveness by examining significant variables affecting inequality such as income profile, labour market dynamics, health, education and household amenities.

Introduction:

Inequality is living in deprivation and vulnerability with restricted means of upward mobility. Additionally, social and economic aspects of inequality are mutually reinforcing.

In the Indian context, socio-economic inequities and inequalities escalate to produce a vicious cycle of poverty and deprivations, requiring multidimensional frameworks to investigate the processes at work. These deprivations are more visible in Indian socio-economic conditions due to multi-factor oppression that cuts across caste, class, religion and gender and continues to push certain groups towards complete exclusion. This exclusion is manifested in economic, political and socio-cultural forms.

Findings of the report: The report is based on the data derived from various rounds of the Periodic Labour Force Survey (PLFS), United information system for education plus and the [National Family and Health Survey \(NFHS\)](#).

1. Inequalities in the labour market:

- The study notes a huge divergence in the average earnings of top and bottom percentiles of the workers.
- The annual cumulative earnings of the top 1% are almost 3 times larger than those at the bottom 10%.
- In the three years between 2017–18 and 2019–20, the share of the top 1% earners moved from 6.14% to 6.84% and then to 6.82%, while that of the bottom 50% remained stagnant at around 22%.
- With respect to *the growth of incomes* during this period, the income of the top 1% grew by 15%, while that of the bottom 50% rose by only 3.9%.
 - Similarly, while the income of the top 10% rose by 8.1% during the period, the income of the bottom 10% declined by 1%.
- Just 30% of the female labour force is in the labour market as compared to the 76.8% of the male labour force available.



Image Source: 'The State of Inequality in India' report

2. Health infrastructure:

- Strengthening the nation's health infrastructure has been done to respond to the health crisis caused by the Covid-19 pandemic.
- Ayushman Bharat Programme aims at achieving universal health coverage by providing care through Health Wellness Centres.
- India has 1,85,505 health centres in 2020, an increase from 1,72,608 in 2005.
- States like Gujarat, Rajasthan and Chhattisgarh have reported a significant increase in the number of health centres built since 2005.

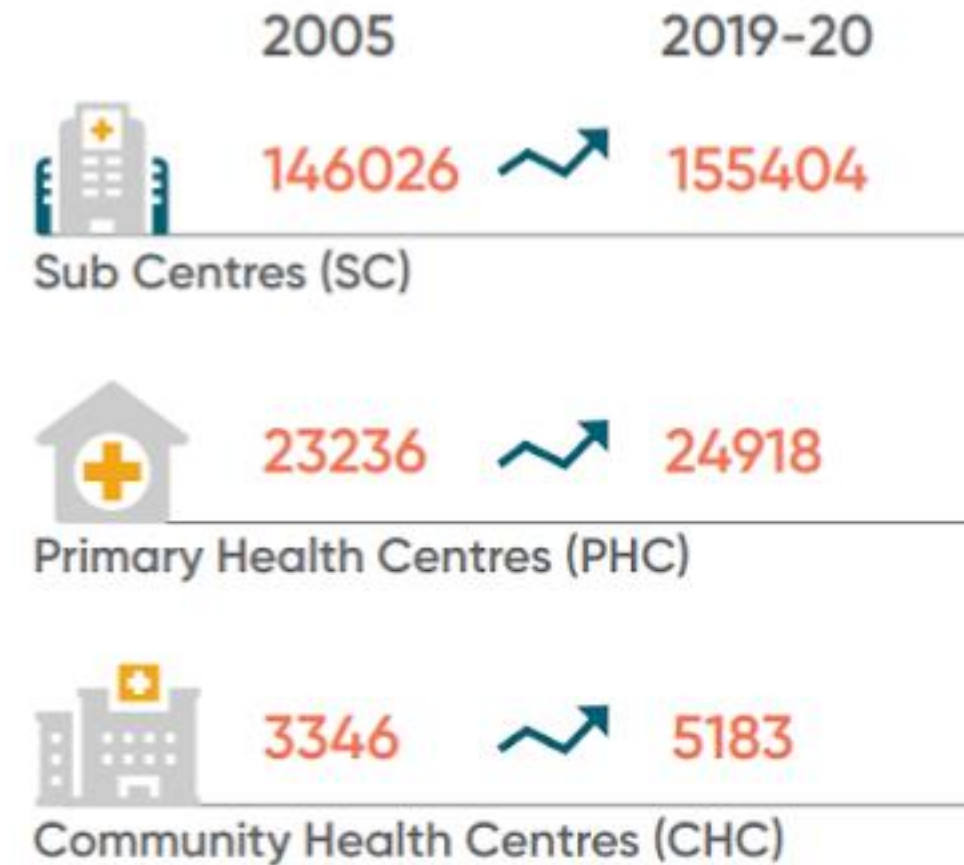


Image Source: 'The State of Inequality in India' report

3. Out of pocket expenditure:

- High medical bills are one of the major reasons households fall into poverty in India..
- While Out of Pocket Expenditure (OOPE) has come down to 13%, it is still too costly for a lot of households to choose health care over other household expenditures.
- Low coverage of financing schemes and low financial protection for adverse health conditions contribute to the rising health inequities.

- 80% from urban areas and 85.9% of people from rural areas are not covered under any health scheme.



Image Source: 'The State of Inequality in India' report

4. Household conditions: It is essential to map the household conditions to ascertain the extent of inequality and its socio-economic manifestations.

- National Family and Health Survey (NFHS) 2015-16 data shows a huge gap in terms of household wealth between rural and urban spaces.
- The overwhelming gap between the rural and urban regions indicates huge income disparity and the choices households make between necessities and luxuries due to limited capacities.
- As per NFHS-5 (2019-20), 70% have improved access to sanitation, 97% of households have electricity access, and 96% have access to safe drinking water.

Access to improved drinking water sources

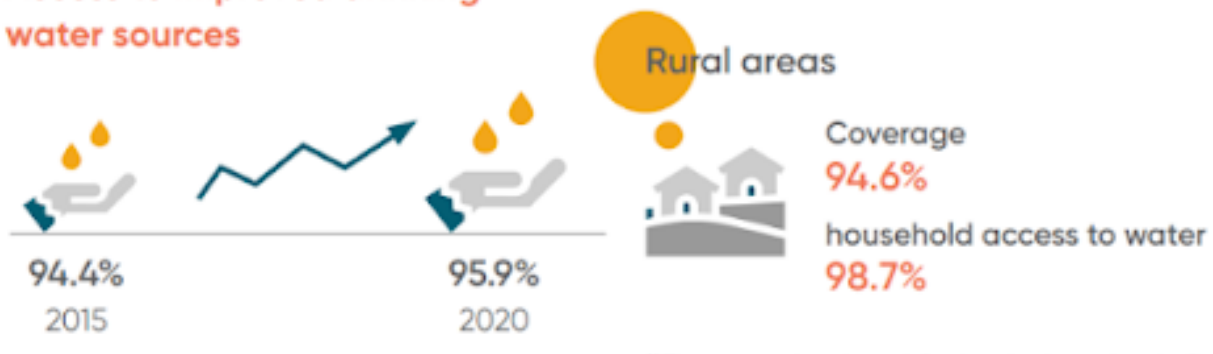


Image Source: 'The State of Inequality in India' report

5. The education gap: As a deciding factor of increased life quality, education is an investment in human capital and is a basic need for sustenance. It triggers socioeconomic mobility and initiates the structural transformation of a society.

- As per the results, in 2019-20, 97.5% of schools in India had established facilities Physical Infrastructure for safe drinking water on the school premises. This was a substantial increase from 2017-18, with approximately 59% of schools having access to safe drinking water.
- In 2019-20, 95% of schools would have functional toilet facilities on the school premises (95.9% functional boy's toilets and 96.9% functional girl's toilets).
- A mere 22.18% schools have internet connection in 2019-20 increasing from 6.2% in 2012-13; the progress remains low in states like Tripura (3.88%) and Meghalaya (3.85%).
- **The Gender Parity Index (GPI):** Based on the Gross Enrollment Ratio, GPI reflects the representation of females in schools in relation to the population of girls in the corresponding age group.
- A value of 1 shows a favourable condition, while anything less than 1 shows relative underrepresentation.
 - In 2019-20, the GPI was more than 1 across all levels of education at the all-India level. However, a few states like Rajasthan, Uttar Pradesh, Manipur, Maharashtra and Karnataka recorded less than 1 GPI in at least one level of education.

Recommendations:

In response to the request of the Economic Advisory Council to the Prime Minister (EAC-PM), the report has made a few recommendations. They are as follows:

1. Establishing airtight slabs that make class-based distinctions clear to trace mobility within a class and in and out of the class. This will help in clearly targeting the beneficiaries of social benefit schemes.
2. Minimum income should be raised and [universal basic income](#) should be introduced to reduce the income gap and equal distribution of earnings in the labour market.
3. Introduce demand-based schemes which offer guaranteed employment in urban areas in lines of MGNREGS to rehabilitate surplus labour and reduce the labour force participation rate between rural and urban areas.
4. Government must spend more on the social sector to make the most vulnerable population resilient to sudden shocks.
5. Trigger upward mobility among the poor by providing equitable access to education and creating more job opportunities.

Conclusion:

The scope of conversation regarding inequality should extend from mere economic basis to socio-economic aspects. This will help us holistically drive policy action through social protection frameworks. Government should develop suitable methodological frameworks to assess inequality to ascertain if the overall well-being of the citizens of the country has improved or not. Therefore, comprehensive and consistent efforts to break the inequality trap through structural means should be the focus of all policies and reforms ahead.
