



Is Indian Railways ensuring the right to safe drinking water? Things said and things left unsaid.

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Indian Railways is the third largest rail network in the world. Access to safe drinking water is deemed a human right. It is incumbent upon the Indian Railways to adequately ensure that every consumer of its facilities is guaranteed this essential amenity. This paper argues that the IR should be more transparent regarding the policies and practices adopted to meet this requirement. The efficient implantation of workable solutions can pave the way for the supply of clean water to every consumer of rail services in India.

Any individual requires safe drinking water be it at home, in office, a shop or any other public space. It has been established in India that right to safe drinking water is an extension of Article 21, Right to Life through various Supreme Court and High Court rulings ^{[1][2]}. The citizens of India are also consumers of safe drinking water and thus have the opportunity to take up the issue to the Consumer Disputes Redressal Courts as well as the Civil Courts. They can take up matters such as unsafe water quality, the absence of provision of drinking water or both. However, drinking water issues are not properly dealt with due to absence of water property rights, vague water laws, and gaps between orders issued by courts and the ensuing implementation by concerned authorities ^[3].

At home, water is supplied by municipalities and other local authorities, which are, therefore

liable for obstruction of a fundamental right as well as deficiency of the service if safe drinking water is not provided. For workplaces, however, various states have made laws to ensure the access to safe drinking water for the employees

^[4]. A legal predicament arises when we talk about access to safe drinking water in public places such as theatres, malls, railways and airports. Potable drinking water in some of these cases have been considered part and parcel of the services rendered to the consumers. For instance, the National Consumer Disputes Redressal Commission ruled that a multiplex's inability to provide safe drinking water would be considered a 'deficiency of services' ^[5]. Following from that viewpoint Indian Railways being the third largest rail network in the world under a single management ^[6] shoulders the huge responsibility of providing safe drinking water

to the passengers, employees and those who pay to gain access to the platform.

The Indian Railways allows access to the platform to passengers, and workers/visitors with either a train ticket or a platform permit/ticket.^[7] The former being able to access the services rendered to them on their respective trains while the latter allowed to avail the facilities on the platform for the time period of their stay. Drinking water supply is one such facility that is not only essential but is also one that is most likely to be availed by everyone accessing the platform.

The Indian Railway Work Manual instructs the Civil Engineering Department to make available adequate water supply and also lays down both the minimum essential amenities as well as the quality of the essentials that must be made available to the passengers^[8]. The IRWM lays down that drinking water is a minimum essential amenity that must be provided in all categories of stations^[9]. According to the IRWM for the provision of clean water, the drinking water standards, IS: 10500 (1991)^[10] can be adhered to. Otherwise it 'should be ensured that the water supplied is clear, potable, free from pathogenic organisms and odour. Water should be of reasonable temperature and free from minerals, which could produce undesirable physiological effects'^[8]. The IRWM not only provides methods and instructions on how to maintain these sources of water supply but also provides guidelines on how and when to send water samples for testing^[8].

In the light of the above I have attempted to answer the following questions:

Whether the Indian Railways is following the aforementioned guidelines. This question needs specific attention not only because a large population uses the Railways but also because a large number of complaints and reports have come up over the years. These complaints have been regarding security, safety, quality of food and water and inefficiency. Little can be said about the Indian Railways following the guidelines particularly in terms of water quality. The guidelines for the provision of safe water

have been produced time and again, first by the IRWM and the IRCED, and then again as a guide book produced by the Indian Railways. However, the extent to which these guidelines have been followed cannot be determined. Only timely reports on water quality can be used as evidence that Indian Railways is indeed following the guidelines mentioned in the IRWM. An NDTV news article claimed that an internal report submitted by a chief engineer brought to light the contamination of drinking water at various railway stations^[11]. Nothing can be concluded as the Indian Railways websites have not uploaded or mentioned the results of any water quality test. There is not even a hint as to whether water quality tests have taken place at all. While the 2014-15 report on Indian Railways mentioned that the Medical Department tested 10,75,628 samples for Residual Chlorine and 70,098 samples for bacteriological test^[12], it didn't mention whether these tests were successful in labelling the water sources fit for drinking. And if not, what percentage of the samples tested were unfit for drinking and by which standard. And also what was the precise source of contamination.

Whether the Indian Railways is providing minimum essential amenities. From the consumer's perspective, drinking water is a minimum essential amenity and hence needs to be provided by Indian Railways. Therefore, this question holds special significance. Again if drinking water i.e. water that is safe for consumption is not being provided then Indian Railways is not adhering to its guidelines. And as such has failed to provide the minimum essential amenities.

Whether Water ATMs is a way out. This question leans onto the commodification aspect of water. If clean water is a right then should we have to pay for it^[13]? And if we are paying for it, then at what price should it be sold at these Water ATMs, which purify water through reverse osmosis? In this scenario we are consumers of the services offered by Indian Railways and therefore have to pay for it. On June 16, 2015, a 'policy for installation of Water Vending Machines on IR' was issued^[14]. Its objective was to make available potable drinking

water to ‘willing customers at affordable prices’. Since then a number of water ATMs have been installed at various stations^{[15][16]}.

The case of railways is unique in the sense that the passengers have already paid for the tickets and that safe drinking water is part of the service rendered to them according to the IRWM. Thus don’t all the passengers have the right to safe drinking water without having to pay for it? However, water from water ATMs can be simply considered a luxury product to the supposed ‘willing customers’ while IR continues to provide safe drinking water through piped water supply, wells or hand-pumps. Water ATMs can only be a way out if the IR fails to provide safe water through ordinary drinking water supply. However, in this case it should either make it free of cost or deduct the cost of water of an average consumer’s drinking capacity from the railway ticket.

Whether the Indian Railways can be held responsible if water quality does not meet drinking standards. This question seeks to address the confusion of the passenger who chooses to drink water from the drinking water supply instead of opting for water obtained from Water ATMs. Indian Railways can be held responsible both as a violator of fundamental rights and well as a violator of consumer rights if the drinking water from the drinking water supply does not meet drinking standards.

From a rights perspective, Indian railways would be charged for a violation of Article 21, Right to Life if the water samples from the drinking water sources at railways stations do not meet drinking water standards. However, perhaps because India isn’t economically prepared to fully implement this as a fundamental right no heavy action has been taken on such grounds.

From a consumer’s perspective, Indian Railways is a ‘service provider’ as the consumers pay for the ticket in return for the services rendered to them. If the services meted out to the consumers does not meet the quality that is mentioned in the codes and manuals, consumers can take the matter to the National or States Consumer Disputes Redressal Commissions. Indian

Railways should then be liable for deficiency of service provided under the Consumer Protection Act, 1986^[17]. The case of drinking water can especially be taken to the consumer court as the trader (Indian Railways) ‘could have known with due diligence (periodic water quality tests) that the goods so offered are unsafe to the public’^[17].

So although water quality is ensured by the water ATMs, now in place at various stations, a failure to supply clean drinking water in taps can still be taken up as a case under the consumer courts or the civil courts.

Can the Codes or the manuals be considered as the service provided by the Indian Railways.

This question delves into the thought process of the consumer. As a consumer he or she is entitled to quality services. As far as the Railways is concerned, the consumer should have access to a reference book that tells her the precise type and quality of services that will be meted out to her. The Indian Railways manuals and codes should then explicitly be equivalent to the service and the quality of service that the Indian Railways says it will offer. The National Consumer Court in the Union of India & Ors. Vs. Sanjiv Dilsukhrai Dave & Anr. Case, took into account the manuals of Indian Railways and ruled that it was the ‘responsibility of the Railways to prevent the entry of unauthorized persons in the reserved sleeper coaches’. So even though the manuals are being considered as part of the legal system, there is still ambiguity regarding the extent of legality of various codes and manuals of the Indian Railways.

Keeping in mind the size and reach of the Indian Railways we should allow for some errors, however, we cannot overlook something as basic and necessary as safe drinking water. Railways must carefully aim at providing basic necessities before venturing into paid models of water supply. The stand and approach of IR in the provision of clean drinking water would become more transparent if it would publish its water quality reports regularly on its website. The task of supplying clean water although huge is not unachievable.

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