

THE HIGH COURT OF SINDH AT KARACHI

C.P. No.D-1606 of 2009

Date: Order with signature(s) of the Judge(s)

Before Mr. Justice Salahuddin Panhwar
Mr. Justice Mohammad Abdur Rahman

Petitioners **Raah-e-Raast Trust** (registered), through its Chairman, Aga Syed Atta-u-Allah Shah through Mr. Tariq Mansoor, advocate

Respondent No.1 **Province of Sindh** through Mr. Jawad Dero, Addl. Advocate General Sindh

Respondent No.2 Nemo for City District Government Karachi

Date of hearing: 28th March 2024

Date of judgment: 17th May 2024

SALAHUDDIN PANHWAR, J-This constitutional petition, under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, has been preferred by a duly registered Trust, represented by its Chairman. The petition articulates that, usage of "**Public Lavatories**" is an inevitable biological need, though petitioners *repeatedly* demanded for providing such **basic** need to the **general public**, especially the women, but the respondents are not *paying* any heed, thus, their such *lethargic* attitude is not only *worsening* the environment but also increasing great difficulties specially for the women; that it is the duty of the respondents to provide the facility of public **lavatories** at **public places** including Bus-stops, Markets, Shopping centers, Parks, Government offices, Hospitals etc. that on the repeated requests of Petitioner, the Respondent No. 1 constructed few public **lavatories** at some **Bus-stops** of Shahrah-e-Faisal, but at the same time, shop at each Bus-stop was also constructed, which was allotted to their favorite persons without auction, though it was neither demanded by the Petitioner, nor it was a public demand; that existing lavatories in Hospitals for Patients and in Schools/Colleges for Students are not either functional and/or properly cleaned/maintained; that "**WORLD TOILET DAY**" is being celebrated globally on **19th November**, as The United Nations Organization (**UNO**) has declared the same, as "World Toilet Day" and has declared that we are facing a global sanitation crisis. This is because as of today **3.6 billion** people are living in deplorable and unhygienic conditions with poor quality toilets or no toilets that

are detrimental to their health and also pollute their environment as well as those who are abiding by proper sanitation rules. Good public health projects are essential to protect the groundwater, but where these are non-existent, human waste can contaminate rivers, lakes, soil and of course, groundwater.

2. Every year, the Respondents are required to increase awareness for better lavatories environment, but they have *failed* to take any action for providing better lavatories *arrangements*/environments to the general public especially the women. Therefore, the petitioner has prayed for the following reliefs:

1. To declare that the "**Public Toilets**" & "**Toilet User's Rights** essential fundament Human Rights, being inevitable biological need, and the adequate number of functional "**Public-Toilets**" at all places frequently approached by the public, with sustainable sanitation, are imperatively necessary for the health, comfort, honour, dignity, self- esteem and mental-peace of "**General-Public**" (*including women & children*) and proper maintenance/cleanliness thereof in conducive to promote hygienic-environments, as well as, to augment the image of the nation.
2. To direct the Respondent No 1 to ensure that "**Public-Toilets**" (Male & Female) with required water and sanitation conditions are constructed and made functional within **three months**, at all public places throughout the Province of Sindh, including all Bus stops, Markets, Police Stations, TPO offices. Government Hospital Schools, Colleges, Mazars, EDO offices, Town Nazi offices, Parks, Utility-stores, Pass-port offices, Nadra offices, Picnic-points, Tourism-spots, Museums, Graveyards, Play-grounds, and Banks.
3. To direct the Respondent No.2 to ensure that "Public-Toilets" (Male & Female)with required water and sanitation conditions are constructed and made functional within three months, at all public places throughout the limits of **C.D.G.K.**; including: all Bus-stops, Markets, Mazzaars, Parks, below the Over-Head-Bridges, near the Police-Stations, TPO offices, Government Hospital, Schools, Colleges, and EDO offices, Town Nazim offices, Utility-stores. Pass- port offices, NADRA offices, Picnic-points, Tourism-spots, Museums. Grave-yards, Play-grounds, and Banks, etc.
4. To direct the Respondents to immediately identify / earmark and provide places for "**Public-Toilets**" (*Male & Female*) with water- connections and simultaneously invite/ attract the attention of Philanthropists and Publicity-addict Commercial firms, Manufacturers and Mobile-phone companies e.t.c to construct, own and manage such "**Public-Toilets**" by serving this cause of "**Public- welfare**", besides, displaying befitting publicity-boards of their firms /products thereon, in Karachi and at other public places of Sindh Province, with the possibility to avoid burden of expenditure on public-exchequer and also without charging any fee from the general public.
5. To direct the Respondent No.1 to ensure that the "**Public-Toilets**" (Male & Female) in all Provincial Departments Buildings particularly in the buildings of Health and Education Departments are made functional, with required water and sanitation conditions immediately.

6. To direct the Respondents to take actions to **create awareness** for "**Toilet User's Rights**", for improving Toilets and sanitation conditions, which are conducive for the amelioration of Health and Hygienic-environments.
7. To direct the Respondents to pay the cost and expenses of this Petition to the Petitioner and to pay the fee of Nazir's Inspection (if any), because, the Petitioner's **Raah-e-Raast Trust** is not involved in any kind of fund-raising activity.

3. The petitioner has also filed **statement** showing the figures of public **lavatories** in Karachi, which is as under:

"1. There are total **182** graveyards in Karachi. Of them, **163** are for Muslims and **19** for non-Muslims. **70** falls under the control of City District Government Karachi, while **112** are looked after by associations, but there exists no "**Public Toilet facilities**" in these graveyards.

2. There are more than **970** Chawks/Bus Stops in Karachi and CDGK has so far rented out more than **250** Bus Stops for opening shops as well as for the display of commercial Bill-boards etc. but concerned Administrations have failed to provide **Public Toilet facilities**.

3. There are **18** Towns and **178** Union Councils in Karachi and each one of them has more than couple of Shopping Centers/ Market without **Public Toilet facilities**.

4. There are more than **133** General Hospital/ Clinics, without **Public Toilet facilities** for the visitors/attendants of Patients as well as for the Divers of vehicle waiting outside these hospitals.

5. **Public Toilet facilities** are not available at Nadra offices, Town Nazim offices, passport offices, Educational Institutions, Utility stores, Picnic-points, Tourism-spots.

6. The learned Council for CDGK has submitted list of six **(6)** Public Toilets of Keamari Town and has also submitted list of seven **(7)** Public Toilets proposed to be constructed in Lyari Town, but he verbally stated only nineteen **(19)** places, where Public Toilets are available in Metropolis Karachi, as against the required number of Public Toilets stated at para 1 to 5 above.

7. Similarly, such Public Toilet Facilities are required in all the Cities and Towns of Sindh Province, for which Respondent No.1 is responsible."

4. Counsel for the petitioner contended, that this petition pertains to a public at large interest enshrined under the Constitution of Islamic Republic of Pakistan 1973 and Pakistan being signatory of UN International Covenant on Rights of Child, women, disables is bound to provide health, safety and clean environment to its citizens. He has also relied upon the correspondence/ summary report with regard to proposed public lavatories as well as UN International Covenants in support of his submissions.

5. There is no cavil to the proposition that provision of health, safety and clean environment is an inalienable right of every citizen of this country.

Learned **AAG** as well as counsel for the official *respondents* have also **conceded** that due to shortage/non-availability of public **lavatories** at public places, especially women and children are suffering a lot. However, counsel for the **CDGK** filed statement along-with details of public lavatories in public places in Karachi which is as follows:

S.No.	Name of Park	Location	Division	Remarks
1	Hill park	PECHS	III	Public toilet
2	Talimee Bagh	Gulberg	IV	-do-
3	Bagh-e-Jinnah	Fatima Jinnah Road	II	-do-
4	Gulshan-e-Jinnah	Dr. Ziauddin Road	II	-do-
5	Bagh-e-Ibne Qasim	Marine Driven Road	I	-do-
6	ST-22	Clifton Block-V	I	-do-
7	ST-10	Clifton Block-II	I	-do-
8	Ameer Khusroo Park	Clifton Block 04	I	-do-

6. In addition, the records reveal that the Local Government Department **constituted** a **Committee**, comprising all relevant stakeholders, to oversee the implementation of a plan for public sanitation facilities, within the Karachi Division. Furthermore, it has been documented, that various public lavatories are in urgent need of repair. An **inventory** of these facilities requiring immediate attention has been duly submitted and placed on record for consideration, which reads:

“LIST OF PUBLIC LATRINES WHICH NEEDS REPAIRING WORK

(Saddar Zone)

S.No.	Location
1	Lee Market (In Side) No. III.
2	Empress Market (Near Dry Fruit Market)
3	Main Saddar Office (Ladies) Off Preedy Street
4	Hassan Ali Hothi Market, Ranchore Line.
5	Frere Market, Shara-e-Liaquat
6	Mitha war, Thatta Bus Stop, Lee Market
7	Baba-e-Urdu Road, Near Kismat Nallah
8	Hira Lal Ganatra Road, Ranchore Line
9	Pankha Line, Ranchore Line
10	Murad Khan Road (Garden) U.C. 7, Zoo
11	Kaka Street, old Haji Camp, U.C. 1, Off Nishter Road
12	Raghoo Dana Street, U.C. 6, Off Jamila Street
13	Regal Chowk, U.C. 8, At Preedy Street
14	Near Beach Park (02 sets), Gents & Ladies, Marin Drive Road
15	KMC Tikona Latrine, Near Aulia Masjid, Nishter Road
16	Tanga stand Lee Market UC-10
17	Banday Ali Qasim Ali Road, Moosa Lane
18	Khadda Market

7. It has further been brought on record that **proposal for construction** of new public **lavatories** was also given by the concerned Department at the following locations, which reads that:

PROPOSAL FOR CONSTRUCTION OF NEW PUBLIC LATRINES

S.No.	Location
1	Mehmood Shah Road, Behind Spencer Hospital, Timber Market
2	Mehmood Shah Road, Old Haji Camp, Lunda Bazar
3	Bolton Market, Near Dust Bin
4	Young Husband Road, Corner of Allah Rakha Park
5	M.A. Jinnah Road, opp. Eidhi Center, Bus Stop
6	Edulji Densha Road, Junction of young Husband Road
7	M.A. Jinnah Road, Saeed Manzil, Bus Stop
8	Kakri Ground gate (ladies and gents)
9	Maripur Road near TCF School (gents)
10	Mirza Adam Khan Road, near P.I. Stop (gents)
11	Rahat Hotel, near Meva Shah Bridge (gents)
12	Faqeer Muhammad Dura Khan Road near Shaheen School

8. Additional Advocate General Sindh filed statement annexed with documents showing therein the details of lavatories in different **TMA**s all over Sindh, which are that:

- “1. TMA Dighri Public toilets are available on bus stops in dighri and T.J. Muhammad and near to the mosques.
2. TMA Mithi 13 Public toilets are available in Mithi Town.
3. DCO Umerkot 09 public toilets are available.
4. DCO Dadu 10 public toilets are available at Dist: & Taluka HQ in Dadu.
5. DCO Jacobabad. 06 public toilets are available at city and TMA, Jacobabad.
6. TMA Badin 21 public toilets are available in Badin Town.
7. DCO Shaheed Benazirabad 11 public toilets are available
8. DCO Shikarpur 22 public toilets are available.
9. DCO Ghotki Public toilets are available for public use at Ghotki Kangha, Mirpur Mathelo & Ubauro

S.No.	Type of Health Facilities	Nomenclature Public Toilets Piped	
		Male	Female
1	PMC Hospital Nawabshah	120	120
2	E.D.O (Health) Office Shaheed Benazirabad	20	5
3	THQ hospital	14	10
4	RHCs	45	45
5	BHUs	38	38
6	Govt. Disp:/MCH Centers	65	65
Total Male & Female		302	283

9. Additional Advocate General Sindh filed report of **Commissioner Hyderabad** Division, specifying the construction and **maintenance** of public lavatories, which reads as under:

District	Name of Taluka	Location of Public Toilets constructed	constructed / maintained by	Location where public Toilets to be constructed	To be constructed/ maintained by
Hyderabad	City Hyd.	1. Bus Stop Bakra Mandi Hala Road. 2. Market Chowk Opp: Post Office Market 3. Tower Market (KhatMitha 4. Market) Fakir KaPir Near Mai Kheri Masjid	TMA City		
	Latifabad	1. Badin Bus Stop	TMA Latifabad	-	-
		2. Green Belt Unit No. 7, Latifabad	TMA Latifabad		
Tando Muhammad Khan	Tando Muhammad Khan	02 Toilets near Wasai Jo-Pir UC No.3, T. M. Khan City	TMA Khan T.M. Khan	02 Toilets near Phuleli Bridge, T.M. Khan City	TMA Khan T.M. Khan
		02 Toilets at Old General Bus Stand UC No.1 T.M. Khan City	TMA Khan T.M. Khan		
	Bulri Shah Karim	06 Toilets at Dargah Bulri Shah Karim	TMA Bulri Shah Karim	TMA-	-
		02 Toilets at Ladies Waiting Rooms, Bathori Road Bus Stand	TMA Bulri Shah Karim		
01 Toilet at Bus Stop Pinyari Mori	TMA Bulri Shah Karim				
Tando Allahyar	Tando Allahyar	02 Toilets constructed at Main Bus Stop, Tando Allahyar	Transition Officer/TMO Tando Allahyar	02 Toilets will be constructed within the premises of Municipal Garden	Transition Officer/TMO Tando Allahyar
Matiari	Matiari	-	-	12 No. Public Toilets will be constructed at Matiari Kyber, Oderolal Station & Nasarpur	TMA Matiari
	Hala	Bhit Shah Town	TMA Hala	Near Adito Room Bhit Shah & Near Allah Chowk	TMA Hala
	New Saeedabad	1. Graveyard 01 No. 2. Jaam-e-Masjid	TMA Saeedabad	1. Civil Hospital 2. Public Park	TMA Saeedabad
		1. 04 Toilets at Bus Stands 2. 04 Toilets at Shah Jahan Park Dadu Stands	TMA Dadu	1. Civil Hospital Dadu 2. DHO Dadu 3. BHC Makhdoom	

Dadu	Dadu			Bilawal 4. Poly Tech. Instt: Dadu 5. EDO CDD 6. Govt. Instt: of Business & Commercial Edu. Dadu 7. Z.T.B Dadu 8. D. F. 0 Dadu 9. Ten Toilets Govt. Girls College Dadu 10. Utility Store Dadu 11. A.C office Dadu 12. Mukh: office Dadu 13. New Bus Terminal Dadu	Defunct EDO (W&S) Dadu Now XEN Building Public Health Dept. Dadu and all TMAs District Dadu.
	Johi	-	-	1. AC office Johi 2. Mukh office Johi 3. Taluka Hospital Johi 4. R. H. C DrighBala	
	K. N. Shah	-	-	1. AC office K.N.Shah 2. Mukh office K.N.Shah Taluka Hospital 3. K.N. Shah 4. R. H. C Site Road	
	Mehar	1. Musafir Khana Beto Store Mehar. 2. Musafir Khana at Fareedabad Bus Stop	TMA Mehar	1. Taluka Hospital Mehar 2. R.H.C Radhan 3. B.H.U Nau Goth 4. AC office Mehar 5. Mukh office	

				Mehar 6. Govt. Poly Tech. Instt. Mehar	
Badin	Badin	1. Hyderabad Bus Stop, Badin 2. Golarchi Bus Stop Badin 3. Kadhan Bus Stop Badin 4. Khoski Bus Stop Badin 5. Seerani Bus Stop Badin	TMA Badin	-	-
	S.F. Rahu	1. Badin Karachi Road, Golarchi 2. Jamia Mosque Golarchi 3. Backside of Taluka Hospital Golarchi 4. SimNalaKario Ganhwar Town	TMA S. F. Rahu	-	-
	Matli	Nil-	-	General Bus Stop Matli	TMA Matli
	Talhar	Nil-	-	General Bus Stop Talhar	TMA Talhar
	TandoBago	Nil-	-	General Bus Stop Tando Bago	TMA Tando Bago
Shaheed Benazirabad	Nawabshah	Market Committee office Nawabshah	Maket Committee Nawabshah	-	-
		New Sabzi Mandi Nawabshah			
		SJs office Market Committee SabziMandi Nawabshah			
		PS-A Section PS-B Section PS Taluka	Police Department	PS Airport Nawabshah	Police Department Nawabshah
		SSP office		-	-
		Regional Passport office Nawabshah	Regional Passport Office Nawabshah	-	-
		DC Office	Building Dept.	-	-
		Dist. Accounts Office		-	-
		S.E Works & Services		-	-
		Dy. Director Agriculture Extension		-	-
		EDO (Health)		-	-
		XEN Building Division		-	-
		XEN Edu. Works	Education Work	-	-
		XEN Highways Divn.	Building Department	-	-
		Dist. Forest Officer		-	-
AC Nawabshah	-	-			
Mukhtiarkar Nawabshah	-	-			
AEN Buldg Sub-Divn-I Nawabshah		-	-		

	Sanghar Bus Stop near Railway Line Nawabshah	Building Dept/TMA Nawabshah	-	-
	BHU KaramJamali	Works & Services Dept.	GD Brohi Cotton Factory	-
	BHU Allah Bux Magsi		GD Laique Zardari	-
	BHU Khair Shah		GD Linepar Nawabshah	-
	BHU Trimore		GD UsmanLakho	-
	MCH Centre Manuabad		GD Laique Zardari	-
	MCH Centre Noor Nawaz Zardari		GD Ali Hassan Magsi	-
	MCH Laique Zardari		-	GD Niazi Khan Siyal
	Al-Fatah Bank Ltd. Nawabshah	Al-Falah Bank	-	-
	10Washrooms/Public Toilets at Shaheed Benazir Bhutto Museum, Art Gallery & Public Park Nawabshah	-	-	-
	EDU Department 10PublicToilets at public place of Edu. & Literacy Dept. 1668 Toilets at Primary to Higher Secondary Schools. 50 washrooms at Edu.& Literacy Dept. for staff	-	-	-
	PS Jamal Shah PS Datar PS Gupchani PS Daur PS Bandhi PS 60 th Mile	Police Dept. Nawabshah	-	-
	Mukhtiarkar Daur	Building Dept.	-	-
	Near Dargah of Sakhi Jam Dattar	Building Dep.t/TMA Daur	-	-
	Irrigation BaghDaur	TMA Daur	-	-
	Bus Stop near Asad Hotel Daur		-	-
	Hotel Fakir UC Jhooro		-	-
	RHC Daur		GD Dorai Mahar	-
	RHC Bandhi		GD Nawaz Dahri	-
	RHC Chank No.3		GD Somar Korai	-
	RHC Yar Mohammad Jamali		GD Ghazi Khan Bhurgri	-
	BHU Karim Bux Dahri		GD Dost Muhammad Hisbani	-
	BHU 60 th Mile		GD Jhooro Shar	-
	BHU Bucheri		GD Usman Sethar	-
	BHU Asgharabad		GD Abbas Kerio	-

		BHU Jam Sahib		GD Khan Muhammad Gorchani	-
		BHU 68 Mori		Mundh Jamrao	-
		BHU Gupchani			-
		MCH Centre Ali Jan Brohi			-
		MCH Centre Ghulam Hyder Shah			-
		MCH Centre Mohammad Shafi Gujar			-
		MCH Ghulam Mohammad			-
	Sakrand	PS Sakrand PS Khandhar PS Mari Jalbani PS Lakhat PS khah PS Nasri PS Mehrab Rahu	Police Dept.	-	-
		AC Sakrand	Building Dept.	-	-
		Mukhtiarkar Sakrand		-	-
		Children Park Sakrand		-	-
		Taluka Hospital		-	-
		RHC Mehar Ali Jamali		GD Agriculture Farm	-
		RHC Mehrabpur		GD Shah Inayat	-
		BHU Karam Ali Jamali		GD Qaisar Khan Chandio	-
		BHU Hassan Jamali		GD Khadhar	-
		BHU SukhioManahijo		GD Kaley Bux Rind	-
		BHU Majeed Kerio		GD Ganhwar	-
		BHU Budhal Shah		GD Lakhat	-
		BHU Punhal Khan Chandio		GD Rahimo Kerio	-
		BHU Dino Shah		GD PalioKerio	-
		BHU ShamilUnar		GS SaeediCharr	-
		BHU Kabar Lakhmir		GD Fatuhal Zardari	-
		BHU Jalalani		GD Fazul Kerio	-
		BHU Hama/ Fakir		GD Punhoon Khan Jamali	-
		BHU Muhammad Khan Magsi	Building Dept/TMA Sakrand	-	-
		BHU Model Village		-	-
		BHU Mari Jalbani		-	-
		MCH Centre Shahmir Zardari		-	-
		MCH Centre Haji Murad Ali		-	-
		MCH Centre Nasir Sharif		-	-
		MCH Centre Bakhsho Magsi		-	-
		PS Kazi Ahmed PS BachalPur PS Kishorpur PS Daulatpur PS Pubjo, PS Ali Abad PS Kundah	-	-	-

		AC office Kazi Ahmed	Building Dept.	PS Mirza Pur	-
		Jamal Shah Road @ Fazal Shah Graveyard Kazi Ahmed	Building Dept. / TMA Kazi Ahmed	-	-
		Van Stop Kazi Ahmed		-	-
		Markazi Imam Kazi Ahmed		-	-
		Mini Imam Bargah Kazi Ahmed		-	-
		TMA office Kazi Ahmed		-	-
		Imam Bargah Nan Stop Daulatpur		-	-
		Dargah Hassan Shah Jehania Shahpur			
		At Bab-e-Jehania Shahpur Jehania			
		HRC Kazi Ahmed		GD Gahand	-
		RHC Daulatpur		GD Allah Bux Kubar	-
		RHC Shahpur Jehania		GD Manahro	-
		BHU Kot Maqhoool Shah		GD Jhoonjhan	-
		BHU Bado Mahar		GD Toti	-
		BHU Nawab Wali Muhammad		GD Allah Bux Fauji	-
		BHU Ramzan Rahu		GD Mir Karim Bux Talpur	-
	Kazi Ahmed	BHU Muqeem Dahri		-	-
		BHU Kharr		-	-
		BHU Ghulam Muhammad Jamali	TMA Kazi Ahmed	-	-
		BHU Haberi		-	-
		BHU Mitho Khah Jokhio		-	-
		BHU Sun Sawri		-	-
		BHU Qutbi		-	-
		BHU Chatton Shah		-	-
		MCH Center Aqil Rahu		-	-
		MCH Centre Bhai Khan Jamali		-	-
		One Public Toilet (Male) at near Public Park Sujawal		-	-
	Sujawal	Two Public Toilets (Female) at Ladies Musafir Khana near Govt. Girls College Sujawal Town	TMA Sujawal	-	-
		One Public Toilet (Male) at Main Bus Stand Sujawal Town near Musafar Khana		-	-
Thatta	Shah Bunder	Six Male and Six Female Public Toilets at Dargah Shah Yaqeeq		-	-
		One Female Toilet at Main Bus Stop Chuhar Jamali	TMA Shah Bunder	-	-
		Two Male and Two Female Public Toilets at Dargah Miskeen Shah		-	-
	Thatta	<i>Scheme of construction of Public Toilets will be included in the Budget</i>			

	Mirpur sakro	2012-13
	Ghorabari	<i>No any scheme of construction of Public Toilets is launched</i>
	Mirpur Bhaturo	
	Jati	

10. In view of details provided by the official respondent, the petitioner filed statement, whereby he has pointed out **non-availability** of public **lavatory facilities** at different places in Karachi. It would be conducive to refer the statement filed by the petitioner, which shows that:

1. Advocate for **CDGK** had submitted list of **Eight (8)** Parks only and remaining **78** Parks are still without Public **Toilet** facilities. List of prominent Parks is attached as Annex "A".
2. There are total **182** graveyards in Karachi out of them, **163** are for Muslims and **19** for non-Muslims, but, there exists **no "Public Toilet facility"**. List of prominent Graveyards is attached as Annex "A-
3. There are about **33** prominent Markets/Shopping Centers, but, there exists **no "Public Toilet facility"**. List of Markets is attached as Annex "A-2".
4. There are about **42** prominent Roads, but, there exists **no "Public Toilet facility"**. List of the Roads is attached as Annex "A-3".
5. There are more than **970Chawks**/Bus Stops in Karachi and **CDGK** has so far rented out more than **250** Bus Stops for opening shops/display of commercial Bill-boards etc, but concerned Administration has failed to provide Public Toilet facilities thereon.
6. There are more than **133** General Hospital / Clinics without Public Toilet facilities for the visitors / attendants of Patients as well as for the Drivers of vehicle waiting outside these hospitals.
7. Similarly, such Public Toilet Facilities are also required in all the Cities & Towns of Sindh Province, for which Respondent No.1 is responsible."

11. At this juncture, it is pertinent to refer that the ancient city of *Mohenjo-Daro* (literally 'Mound of the Dead Men') was discovered; the city of *the Indus Valley Civilization* was built in about **2600** BC. According to *archaeologists*, that, there could have been *public toilets* in the city. The Mohenjo-Daro sewerage system is considered the first in the world. The canals of the city sewer system were finished with bricks, and on top they were laid with specially treated *limestone* for *disinfection*. The street drains were typically made of baked brick, with special shaped bricks to form corners. The bricks were closely fitted and sealed with mud mortar. It has been observed by the Gregory Possehl, *that over time, the same drains were reused by raising the walls*

with more bricks. The drains were mostly covered and hidden underground. They were covered by a layer of baked bricks which was laid flat across the side walls of the drain. Wider drains were covered with limestone blocks, then covered with a layer of mud. Small settling pools and traps were built into the system of drainage to allow sediment and other material to collect while the water and smaller particles flowed away. These would be cleaned out periodically, and is attested to by "*little heaps of greenish-gray sand that we frequently find alongside them*".

Source:

Mohenjo-daro Street with Drains (Plate 9, Sir Mortimer Wheeler, From Early India and Pakistan to Ashoka, London, Thames and Hudson 1959).

Possehl, G. L. (2002). The Indus civilization: a contemporary perspective. Rowman Altamira.

12. According to World Health Organization (**WHO**) toilets, water and sanitation are great investments, where every dollar spent on sanitation has a return of **US \$5.50** in the form of reduced healthcare costs for individuals and society around the world. If only our government too had the same realization. Although Pakistan is a **member of UNO** and a number of its allied agencies like **WHO, UNICEF** etc. yet we have not fully complied with different resolutions and conventions to which we are signatories. Still, efforts are being made to introduce hygiene to school-going children, particularly in rural areas.

13. As per Fatima Shahryar's report, in 2018 **UNICEF** initiated a program to support Punjab authorities to build toilets and install hand washing stations across all public schools in the province. Students were organized into **WASH** clubs and trained in promoting hygiene. **UNICEF** with support from United Kingdom's Department for International Development (**DFID**) has helped more than **10,000** families so far, to build toilets in their homes. The project has also benefited nearly **500** schools, mobilizing **2,000** teachers and about **100,000** students. These types of measures are promising for the country, but we need to expand our efforts to extend these facilities to disadvantaged people.

14. Before proceeding further, it would be pertinent to mention here, that the importance of **public toilets for women** in undeveloped countries extends far beyond then mere convenience. It involves critical issues related to *health, safety, dignity, and gender equality*. It emphasized on **Gender equality, & Women's Employment Policy(GEWE)** formulated by "**UNWOMEN**" in

collaboration of Women Development Department Govt of Sindh in the year 2019-2020¹, in order to enhance and ensure women participation in social, political, public activities by guarantying all basic needs for them including **toilets** (see pages 39, 40 & 62 of Policy). Notwithstanding, here are some of the **key reasons** why the public toilets are *especially* crucial for **females** in these regions:

i. Health and Hygiene: Lack of access to clean and safe toilets can lead to various health issues for women, including urinary tract infections, kidney infections, and other hygiene-related illnesses. Proper sanitation facilities help in reducing the risk of these conditions.

ii. Menstrual Health Management: Many women and girls in undeveloped countries face challenges in managing menstrual hygiene due to inadequate sanitation facilities. This can lead to health issues and absenteeism from school or work, perpetuating cycles of *poverty* and *inequality*.

iii. Pregnancy and Childcare: Pregnant women and mothers with infants require clean and private facilities for changing diapers, breastfeeding, and managing pregnancy-related needs.

iv. Safety and Security: The absence of safe, accessible toilets forces women to relieve themselves in the open, often under the cover of darkness to maintain privacy. This puts them at a heightened risk of harassment, violence, and animal attacks. Safe sanitation facilities can significantly reduce these risks.

v. Privacy and Dignity: Access to private sanitation facilities is crucial for preserving the dignity and *self-esteem* of women and girls. It allows them to manage their hygiene needs discreetly and comfortably.

vi. Boosting Educational and Economic Engagement: The absence of toilet facilities disproportionately affects girls' school attendance and participation, especially during their menstrual cycles. Similarly, women's full engagement in the workforce and community life is curtailed. The provision of adequate sanitation is instrumental in enhancing school attendance and enabling women to be active participants in the economy.

vii. Reducing Gender Inequality: The provision of public toilets, that cater to the needs of women is a step towards gender equality. It acknowledges and addresses the specific sanitation needs of women and girls, promoting a more inclusive and equitable society.

viii. Community Well-being and Environmental Health: Proper sanitation facilities help in *preventing* the *contamination* of water sources and the environment, thereby contributing to the overall health and well-being of communities.

15. Summarily, the provision of public toilets for women in undeveloped/underdeveloped countries is not just a matter of public health and hygiene; it's a *multifaceted* issue that touches on *safety*, *privacy*, *gender equality*, and the economic and educational participation of half of the

¹<https://pakistan.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2021/01/FINAL%20GEWE%20Policy%20Sindh%20Feb%202020.pdf>

population. Therefore, it's crucial for governments, NGOs, and international organizations to prioritize and invest in sanitation infrastructure, that meets the needs of women and girls.

16. Another important issue of public toilets, in rural areas is *multifaceted, encompassing* challenges related to access, **maintenance**, cultural norms, and funding. **Local councils** play a pivotal role in addressing these challenges, as they are closest to the communities affected and have the authority to implement local solutions. Here's a closer look at the issues and the role of local councils:

i. **Issues with Public Toilets in Rural Areas Access and Availability:** Rural areas often suffer from a lack of public toilets, forcing residents to resort to open defecation. This lack of access can be due to geographical challenges, limited infrastructure, and insufficient funding.

ii. **Maintenance and Cleanliness:** Even when **toilets** are available, they may not be maintained properly due to resource constraints, leading to unsanitary conditions, that discourage use and pose health risks.

iii. **Cultural Norms and Practices:** In some rural communities, there may be resistance to using shared or public toilets due to cultural norms or lack of awareness about hygiene practices.

iv. **Gender-Specific Needs:** Rural public toilets often do not cater to the specific needs of women and girls, such as menstrual hygiene management facilities, which can deter their use and exacerbate gender inequalities.

v. **Funding and Resource Allocation:** Rural areas often receive less attention and funding for sanitation infrastructure compared to urban areas, resulting in inadequate facilities.

vi. **Role of Local Councils Planning and Infrastructure Development:** Local councils are responsible for the planning and development of public toilet facilities. This includes identifying strategic locations, ensuring toilets are accessible to all community members, and incorporating gender-specific design features.

vii. **Maintenance and Upkeeping:** Regular maintenance and cleaning are crucial to ensure that public toilets are hygienic and safe to use. Local councils need to allocate resources for the ongoing upkeep of these facilities.

viii. **Community Engagement and Education:** Engaging with the community to understand their needs and preferences is essential. Local councils can conduct awareness campaigns about the **importance** of *sanitation, hygiene* practices, and how to properly use and maintain public toilets.

ix. **Funding and Partnerships:** Securing funding is a significant challenge for local councils. They can explore various funding sources, including government grants, partnerships with NGOs, and community contributions. Innovative financing mechanisms, such as public-private partnerships, can also be considered.

x. **Monitoring and Evaluation:** Implementing mechanisms for regular monitoring and evaluation helps in assessing the effectiveness

of public toilets and identifying areas for improvement. Feedback from users can guide future initiatives.

xi. **Policy and Regulation:** Local councils can advocate for and implement policies that prioritize sanitation and public health, ensuring that rural areas are not neglected in broader national strategies.

17. **In conclusion, local councils** have a crucial role in addressing the challenges of public toilets in rural areas. Through strategic planning, community engagement, and innovative funding solutions, they can significantly improve access to and the quality of public sanitation facilities, thereby enhancing the health, dignity, and well-being of rural communities.

18. Access to clean and functional public lavatories is vital for preventing the spread of diseases. **Public lavatories**, should be accessible to everyone, regardless of *age, gender, or physical ability*. Properly designed facilities accommodate people with disabilities, parents with young children, and the elderly. Clean, well-maintained lavatories offer a safe space for personal hygiene without embarrassment or intrusion. Tourists and travelers rely on public lavatories during their journeys. Cities with inadequate facilities risk leaving a negative impression on visitors/tourists. Well-placed and *well-maintained* lavatories contribute to urban development by *enhancing* the overall quality of life for residents and visitors alike. Public lavatories equipped with **water-saving** fixtures and *eco-friendly* practices contribute to *water conservation* and reduce environmental pollution. Proper waste disposal prevents contamination of soil and water bodies. Public lavatories are not mere *conveniences*; they are essential components of a civilized society as guaranteed in the constitution² as part of right to dignified life as interpreted in **Ms. Shihla Zia**³ that *“the right to a healthy environment was part of the fundamental right to life and right to dignity, under Article 9 and 14 of the Pakistan Constitution. The Supreme Court held that the word "life" covers all facets of human existence, all such amenities and facilities that a person is entitled to enjoy with dignity, legally and constitutionally.*

19. Now at this juncture, it would be appropriate to refer **Article 14** of the Constitution of Pakistan, which pertains to the **dignity of man**, and the overarching mandate for *equality* and **non-discrimination** as stipulated in **Article 25. Article 38 (d)** of the Constitution of Pakistan states *“provide basic necessities of life, such as food, clothing, housing, education and medical relief, for all such citizens, irrespective of sex, caste, creed or race, who are permanently or temporarily unable to earn their livelihood on account of infirmity, sickness or*

²Article 09, of Constitution of Pakistan

³ Ms. Shihla Zia Vs WAPDA (PLD 1994 SC 693)

unemployment.” The Constitution, with a **comprehensive** catalogue of fundamental rights, *social* and *ethnic* inclusion of all citizens, is the **basic source** to protect the *human rights* and provides *social justice* to all citizens including *distinctivelyable persons*. It serves as a shield against any infringement of rights of the such class of persons. In **Messrs Al-Raham Travels and Tours’s case**⁴ Supreme Court ruled that: “*a man cannot think for individual or collective development when he cannot meet the basic necessities life such as minimum food, clothing and housing. The right to those basic necessities of life are basically and fundamentally economic rights*”. Thus, it has to be enforced mandatorily. In addition to the aforementioned commitments, Pakistan, as a signatory to various United Nations Charters, is obligated to uphold the principles and objectives enshrined within these international instruments. This adherence reflects the nation’s dedication to the global standards set forth by the United Nations system.

20. The Universal Declaration of Human Rights (**UDHR**) stands as a beacon of hope—a milestone document that transcends borders and cultures. Drafted by representatives from diverse legal and cultural backgrounds, the **UDHR** was proclaimed by the United Nations General Assembly in Paris on December 10, 1948. It crystallized fundamental human rights, that must be universally protected. This monumental declaration has been translated into over 500 languages, echoing its resonance across the globe. **The Core Principle:** Human Dignity at its heart lies the recognition of the inherent dignity and equal, inalienable rights of all members of the human family. The UDHR boldly proclaims, that every individual and every societal organ should strive to promote respect for these rights and freedoms. It is not merely a legal document; it is a moral compass guiding humanity toward freedom, justice, and peace. **Sanitation: A Matter of Dignity** Sanitation, more than many other human rights issues, evokes the concept of human dignity.

21. **The Link to Gender Equality:** Sanitation is not a mere infrastructure issue; it is a matter of human dignity. When individuals lack access to proper sanitation facilities, their rights are compromised. Open defecation, for instance, has far-reaching consequences, including malnutrition, stunting, and increased diarrheal diseases. Moreover, the shame associated with inadequate sanitation perpetuates gender inequality.

22. **Derived from the Right to an Adequate Standard of Living:** While not expressly enumerated within the International Covenant on Economic, Social,

⁴ 2011 SCMR 1621

and Cultural Rights, the right to sanitation can be construed as an implicit corollary of the right to an adequate standard of living. Undoubtedly, sanitation stands as a cornerstone of human well-being, health, and intrinsic dignity – an assertion firmly rooted in the provisions of **Articles 12 and 25** of the United Nations Universal Declaration of Human Rights. Moreover, reference may aptly be drawn to the landmark legal precedent set forth in the famous case of **Al Jihad Trust**⁵ wherein it was held by the Apex Court that: “The Fundamental Rights enshrined in *the Constitution in fact reflect what has been provided in some of the Articles of Universal Declaration of Human Rights. Supreme Court, while construing the former, refer to the latter if there is no inconsistency between the two with the object to place liberal construction as to extend maximum benefits to the people and to have uniformity with the comity of nations*”.

23. It would be pertinent to refer here, the applicable statutory provision concerning public lavatories as stipulated in **Part 2 of the Sindh Local Government Act 2013**, which is articulate as follows:-

2. Public Toilets.-1) A Corporation, Municipal Committee or Town Committee may and if required by Government, **shall provide and maintain sufficient number of public toilets for separate use of each sex at appropriate places, and shall cause the same to be kept and maintained in proper order of cleanliness.**

2) The **occupier** of any **public premises** or land to which any latrine or urinal pertains shall keep such latrine or urinal in a proper state to the **satisfaction** of the Council concerned and shall employ such staff for the purpose as may be necessary, or as may be specified by the Council.

3) Where any **premises** are with **privy or urinal accommodation**, or without adequate privy or urinal accommodation, or the privy or urinal is on any ground **objectionable**, the Council concerned may by notice require the owner of such premises –

- (a) to provide such or such additional privy or **urinal accommodation** as may be specified in the notice; or
- (b) to make such structural or other **alterations** in the existing privy or urinal accommodation as may be so specified; or
- (c) to remove the **privy or urinal**; and
- (d) where there is an underground **sewerage system**, to substitute connected privy or connected **urinal**

⁵ Al Jihad Trust through Habibul Wahab Al Khairi, Advocate and 9 others v. Federation Of Pakistan through Secretary, Ministry of Kashmir Affairs, Islamabad and 3 others (1999 SCMR 1379),

accommodation for any service privy or service-urinal accommodation.

In respect of the Province of Sindh as this function comes within the jurisdiction of a Town Municipal Corporation under the aforementioned provision, each Town Municipal Corporation is independently obligated to establish and maintain such public toilets within each of their jurisdictions.

24. Moreover, Sindh **Sanitation Policy 2017**, duly approved by the Chief Minister Sindh was notified on **17.05.2017**. This policy was established with the objective of enhancing sanitation services and fostering a hygienic environment for the denizens of Sindh. However, it seems that tangible measures to actualize the stipulations of this policy have yet to be undertaken.

25. It needs to be emphasized here, that sufficient legislation, policies and charters are enacted and promulgated in the country regarding ensuring safe, clean and hygiene environment, but the same are rarely implemented by the executive, nor the public has sought its implementation, except few petitions not particularly regarding establishment and maintenance of the lavatories, perhaps owing to lack of awareness and interest, secondly being common problem, though its individual issue as well. Mostly need of lavatories felt at public places, where people of different cities, travellers or tourist visits e.g bus stops, Railway stations or Parks etc. Yet enforcement of these enactments, policies can well be sought by the individuals from proper forums not limited to writ jurisdiction. Nonetheless, Pakistan Penal Code provides punishment U/Sections 268 to Section 291 respectively, as well as U/sections 133 & 143 Cr.P.C provides meaningful authority to the Magistrate to remove nuisance by taking cognizance upon complaint or information received particularly in case of non maintenance of lavatories, which cause nuisance to the public at large either using or not, therefore such complaint shall liberally be entertained and decided on merits including against public functionaries in case of their failure to maintain the same.

26. The paramount obligation of the Government of Sindh, the Karachi Development Authority (KDA), the Malir Development Authority (MDA), and the Karachi Metropolitan Corporation (KMC) and the Town Municipal Corporations lies in conscientiously prioritizing the construction, meticulous maintenance, and seamless accessibility of public lavatories. These facilities should be thoughtfully designed to cater to the specific needs of women, differently abled individuals, and the elderly. By adopting such measures, these authorities not only safeguard the intrinsic human dignity, but also

proactively promote hygiene, thereby fostering the establishment of healthier and more inclusive communities.

27. In accordance with the aforementioned directives, it is incumbent upon the Secretary of the Public Health Engineering and Rural Development Department Sindh, as well as the Women Development Department, to diligently implement the Sindh Sanitation Policy 2017. This includes adherence to the pertinent provisions of the Gender Equality and Women Empowerment Policy 2017, both in letter and in spirit. Furthermore, the Additional Chief Secretary of Sindh, the Director General of the Karachi Development Authority (KDA), the Malir Development Authority (MDA), and the Mayor of the Karachi Metropolitan Corporation (KMC) are mandated to submit comprehensive reports regarding establishment, existence and maintenance of public toilets regularly. These reports must provide an updated overview of the condition and operational status of all public lavatories located within various public venues. This directive serves to ensure that the stipulated sanitation and gender equality policies are not merely formalities, but are actively enforced and manifested in the tangible improvement of public facilities. The meticulous execution of these policies is essential for fostering an inclusive and hygienic environment for all citizens.

28. By virtue of this order, at the divisional level, Committees shall be methodically be constituted under the vigilant supervision of Commissioners representing their respective Divisions. These Committees shall be composed of relevant **Deputy Commissioners (D.Cs)**, Mayors, **Chairmen of Town Municipal Corporations**, and all pertinent Departments. Notably, in the city of Karachi, the leadership of this Committee shall vest in the **Mayor** of Karachi.

Mandate of the Committees

- (i) The primary mandate of these Committees is twofold: **first**, to diligently oversee the restoration and maintenance of public lavatories; and **second**, to specifically allocate public lavatories for women across public spaces and government premises.
- (ii) It is incumbent upon these Committees to ensure that these essential facilities remain operational, accessible without any financial burden (free of charge), unencumbered by obstructions, and impeccably maintained.
- (iii) These Committees are tasked with formulating a forward-looking strategy for the efficient **administration** of these public lavatories,

drawing inspiration from the **Built Run** and transfer by the public partnership.

- (iv) This strategic approach should encompass seamless management, equitable distribution, and optimal utilization of these facilities.
- (v) Besides, to enforce compliance, Deputy **Commissioners** throughout the Province are hereby directed to designate **Assistant Commissioners** from their respective jurisdictions. These appointed officials shall collaborate closely with the Chairmen of the District Councils/Town Municipal Corporations to conduct regular inspections.
- (vi) The objective of these **inspections** is to verify that the demarcated areas designated for public lavatories remain free from encroachments are dedicated solely to their intended purpose.
- (vii) In the event that any encroachments are detected on these amenity plots, swift and decisive action must be taken to rectify such infringements and reserved plots for public toilet shall be mutated in the record of rights.
- (viii) The affected sites should be promptly rehabilitated, equipped with all necessary amenities, and restored to their rightful function.

29. Lastly, an extensive awareness campaign is to be initiated, aimed at educating citizens about their fundamental right to access these indispensable facilities. Public dissemination of information regarding the availability, location, and importance of public lavatories is crucial for fostering a hygienic and inclusive urban environment. As per the directive, comprehensive reports detailing the progress and compliance with these measures shall be submitted through the **MIT-II** of this Court, for our careful review in Chambers. Chief Secretary Sindh, Additional Chief Secretary Local Government shall pursue compliance accordingly. Learned Registrar and Additional MIT-II shall ensure compliance of the order as well as uploading thereof on the official website in Sindhi and Urdu languages.

30. In conclusion, the instant petition stands disposed of in accordance with the terms outlined above.

JUDGE

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