Questionnaire (non-State actors) The Special Rapporteur would welcome answers to the following questions:

1. Please describe the role and responsibilities of your organization in the water and sanitation sector.

Safai Karmachari Andolan (SKA) is a programme of the Association for Rural and Urban Needy (ARUN). SKA is a campaign to eliminate manual scavenging with the organisation of safai karmacharis (persons engaged in manual scavenging) for their liberation and rehabilitation. In India and all other caste affected countries, people from communities in the lowest rung of the caste structure are forced into being sanitation service providers in situations of poor or nil sanitation like open defecation, dry latrines and insanitary latrines, sewer lines, manholes, septic tanks, railway tracks etc. In this inhuman practice, people mostly women lift raw and untreated human excreta with just a broom and metal plate or in the case of septic tanks and manholes involving mostly men who dive down naked into untreated sewage to clear blocks and clean out debris that is blocking drain holes often resulting in death from toxic gases. Men continue to die daily in this dangerous and inhuman work due to drowning and inhaling of toxic gases in the sewers. SKA mobilises, organises and educates the manual scavengers on the legal instruments and national policies available to liberate them from manual scavenging and access their right to rehabilitation with dignified non scavenging livelihoods. This also includes developing leadership in the community to engage with the state and judiciary to implement the laws, policies and programmes for the liberation and rehabilitation of manual scavengers.. SKA filed a public interest litigation in the supreme court on the non implementation of the ‘Employment of Manual Scavengers and the Construction of Dry Latrines (prohibition) act1993’ by the central and state governments and their departments. The campaign engaged with the national advisory council and the relevant ministries to bring in a new and improved law to address manual scavenging which includes liberation and rehabilitation. This law – ‘the prohibition of employment of manual scavengers and their rehabilitation act 2013’ was passed by the government of India in December 2013. In 2014 the Supreme Court of India passed the order on the PIL to the Government of India to implement the law strictly and liberate, rehabilitate and compensate all manual scavengers and their dependants. However it must be mentioned that though laws have been passed and schemes have been formulated, none of these have ever been implemented and manual scavenging continues to be prevalent on a large scale.

2. How can a regulatory framework (e.g., legislative, institutional, policy) and bodies contribute to the realisation of the human rights to water and sanitation? Please provide examples.

Legislation and institutional mechanism to protect and guarantee the dignity and life of human beings can be used by historically oppressed and discriminated communities to access justice and assertion of human rights. In India there is the law “Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013’, which mandates a survey to identify all persons engaged in manual scavenging, provide for their liberation and rehabilitation and prescribes penalty and punishment for employing persons as manual scavengers. The National Safaikarmachari Finance Development Corporation has been instituted to implement the policies and schemes under the law. But the law and the institutional policies and schemes fail to address the attitudinal and behavioural practices arising out of caste and patriarchal cultures. This is a big gap by which the implementation fails to happen. Since most persons who are responsible to implement these laws and policies hail from the same deeply embedded caste structures and ideologies, it results in an institutional denial and apathy that such violations exist and the lack of will to implement the protective legislations and policies.

3. Are the contents and principles of the human rights to water and sanitation generally reflected in regulatory frameworks? How do you assess your country’s regulatory framework in this regard? Please provide examples of other countries if available.

4. Please provide examples of situations where the lack of regulation, or inadequate regulation, in the water and sanitation sector could potentially lead to, or has actually led to, violations of the hum an rights to water and sanitation.

In India manual scavenging continues to be rampant in dry latrines, sewer lines and sewer pits due to government policy and apathy to develop mechanisation and technology in sanitation services. It is inexcusable that a country that is able to develop and practice the latest technology in space and industry is not having a modern and mechanised sanitation system to prevent human deaths in sewer lines. Inspite of laws, policies and institutions powers are misused and in most cases of violations it is kept hidden. In most cases there is blatant violation followed by denial. But in some cases there is also the ignorance of the law by both the affected person and the violator. It is the responsibility of the state to spread the awareness of the law and its rules to ensure strict compliances.

5. What are the main challenges or obstacles encountered when trying to incorporate contents and principles of the human rights to water and sanitation into regulatory frameworks?

In the 18th session in October 2011 the Human Rights Council in October 2011 adopted the resolution (18/1) – The human right to safe and drinking water includes, “*To provide for a regulatory framework aimed at ensuring that all water and sanitation service providers respect and protect human rights and do not cause human rights violations or abuses, and to ensure that national minimum standards, based on human rights criteria, are in place when water and sanitation services are decentralized, in order to ensure coherence and countrywide compliance with human rights” .* Though there is the law that protects persons in historically oppressed and discriminated dalit communities from manual scavenging, the policies and plans of the state to provide sanitation for all falls short. For eg the schemes for liberation and rehabilitation are irrelevant and do not meet the aspirations for a dignified non scavenging livelihoods and the government ‘s Swachh Bharath Abhiyan to ensure elimination of open defecation and manual scavenging remains ineffective with its plan to build pit latrines in rural areas which are in reality dry latrines, the very cause for the continuing prevalence of manual scavenging. The lack of government planning for a modern and mechanised sewage treatment and disposal system shows up the apathy and non commitment of the state to liberate and rehabilitate persons engaged in manual scavenging.

6. Please provide specific examples of good practices where a human rights-compliant regulatory framework has led to the progressive realisation of the human rights to water and sanitation.

7. Non-State actors have the responsibility to respect the human rights to water and sanitation and to exercise human rights due diligence in their operations. How should a regulatory framework reflect this responsibility? Please provide examples.

8. Which model of regulatory mechanism would facilitate stronger compliance human rights standards by service providers? Why? What are advantages and disadvantage of an independent and autonomous regulatory body?

In the 18th session in October 2011 the Human Rights Council in October 2011 adopted the resolution (18/1) – The human right to safe and drinking water includes, “*To provide for a regulatory framework aimed at ensuring that all water and sanitation service providers respect and protect human rights and do not cause human rights violations or abuses, and to ensure that national minimum standards, based on human rights criteria, are in place when water and sanitation services are decentralized, in order to ensure coherence and countrywide compliance with human rights” .* The regulatory legislation and institutional framework of India with regard to the above mentioned law and institutions to address the inhuman manual scavenging.

9. What mechanisms should be in place to ensure that the voice of persons and communities in vulnerable situations is heard and their needs are taken into consideration in the regulation of water and sanitation services? Please provide positive and negative examples.

At present, 80 percent of the sanitation services is outsourced by the state which is also the regulatory body. The contractors who provide the sanitation services employ the community persons as manual scavengers. This is not the ideal situation as state becomes an indirect employer but with no control of the violation. The state must have both control and responsibility to ensure that no human being is employed as a manual scavenger. This can only be ensured if the sanitation services is absolutely controlled by the state and there should not be any non state actor involved to provide sanitation services. Such a mechanism would ensure that the dignity of all persons in sanitation services remains a state responsibility. The safai karmacharis (persons engaged in sanitation services) through their representative like a union or similar organised body will hold the monitoring responsibility. A regulatory body will have representatives from both state and union.

10. What measures could be envisaged in a regulatory framework to promote transparency and tackle corruption in the water and sanitation sector?

Submission of responses to the questionnaire can be sent to srwatsan@ohchr.org (encouraged) or addressed to: UN Special Rapporteur on the human rights to safe drinking water and sanitation Special Procedures Branch UNOG-OHCHR CH-1211 Geneva 10, Switzerland Fax : +41 22 917 9006 The deadline for submission is 7 April 2017. Due to a limited capacity for translation, we kindly request that your responses to the questionnaire be in English, French or Spanish. Unless otherwise indicated, all submissions to the questionnaire will be available at the webpage of the Special Rapporteur on human rights to safe drinking water and sanitation at www.ohchr.org/srwaterandsanitation.