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ABOUT US

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EVALUATION OF THE INDIAN AIR POLLUTION CONTROL LAWS

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I would like to express my sincere gratitude to my respected research methodology teacher Prof. Aprajita Verma for giving me the opportunity to work on the research project "Evaluation of Indian Air Pollution Control Act". I have tried to collect information about the research project in various possible ways to get a clear idea about the topic of this research

CASE LAW	CITATION
1. Taj Trapezium Case	30 December, 1996
2. M.C. Mehta v. UOI	1991 SCR (1) 866
3. Shri Ram Fertilizer's case	1987 AIR 1086
4. Curious Case of Delhi	
5. Bhopal Gas Tragedy Case	1990 AIR 273

SYNOPSIS :

The research paper assesses the effectiveness and implementation of India's air pollution control law. It delves into the regulatory framework, its enforcement, and the impact on mitigating air pollution. The study likely examines challenges, loopholes, and potential recommendations for better policy execution to address India's complex air quality issues.

To assess the effectiveness of India's pollution control system, we have examined the shortcomings of two relevant laws and shown that even some seemingly flawless laws have lost

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their validity due to non-implementation. It has become a truism today that there is a lack of political will. If India's Prime Minister had decided to make pollution control a top priority, he would have had access to trained technicians, monitoring equipment, and enforcement resources. The Seventh Five Year Plan8 6 (1985-1990) could have reflected these new priorities by empowering the Pollution Control Board with enforcement powers and enacting simple legislation with penalties severe enough to deter evasion and enforce the law.

RESEARCH QUESTION:

1. is the air pollution law working effectively?

OBJECTIVE OF THE STUDY

1. critically examine the concept of air pollution and the legislation governing its control
2. Learn from history how air pollution has evolved.

SCOPE OF THE STUDY:

The scope of the study was limited to a review of the concept of air pollution legislation and comparison with other countries.

SIGNIFICANCE OF THE STUDY:

Understand the concept of air pollution and how air pollution is legislated.

RESEARCH METHODOLOGY:

NATURE OF THE STUDY: The research conducted is doctrinal in nature and is a combination of analytical, descriptive and explanatory methods.

LITERATURE REVIEW:

1. **India's 40-year old law to combat air pollution languishes as the crisis intensifies, Nihar Gokhale, Mongabay, November,2020**

2. Ultimately, an administrative initiative of this kind arises as a result of public interest and perceived need. It is much easier for citizens to recognize such interest and need when

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they are hungry for reform. In the aftermath of the Bhopal accident, with widespread awareness of environmental damage and a growing demand for better regulation, this seems an ideal time to improve India's pollution control system. People's memories are short and their calls for environmental improvements tend to be ad hoc. Unless urgent action is taken, it could be years before India's pollution control system is strengthened and another disaster could occur.

3. **C.M. Abrahan & Armin Rosencranz, An Evaluation of Pollution Control Legislation In India, 11 Columbia Journal of Emvironmental Law**

   Indeed, there are underutilized provisions in India's Criminal Code, Code of Criminal Procedure and Code of Civil Procedure that can be used to mitigate the effects of pollution; Section 91 of the Code of Civil Procedure, as amended in 1976, also facilitates civil actions for exceeding permissible pollution levels. These are just some of the avenues that proactive lawyers and environmental groups can pursue to supplement the currently ineffective anti-pollution regime and demonstrate to polluters that the public is willing to protect India's air and water resources by any means necessary.

AN EVALUATION OF THE AIR POLLUTION CONTROL LAW IN INDIA

INTRODUCTION:

Almost 40 years ago, India enacted a law to combat air pollution. However, now that an air pollution emergency has re-emerged in northern India, this all-but-forgotten law is facing another year of reckoning.

The Air Pollution Control Act, 1981 was enacted to fulfill India's commitments made at the UN Conference on Environment in 1972 to "preserve air quality and prevent air pollution". The Act gave state and central governments broad powers to take measures to improve air quality, implement pollution control measures, shut down unscrupulous industries and send polluters to jail.

However, despite Indian cities ranking higher in global air pollution rankings (latest State of the World's Air Quality 2020 report), the importance of the Act has been declining over the

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years. Very few cases have been filed under the Air Protection Act in the past few years, despite the fact that the northern states of India experience the worst air pollution every winter. Measures such as the Phased Response Plan and the Even-No Scheme rely on other laws and regulations, some of which have nothing to do with the environment[1].

This law is commonly referred to as "toothless". When pollution spikes during winter, MPs, lawyers and activists demand that the law be amended or replaced with a new one. This year, it is the turn of India's Attorney General to make a similar commitment. On October 28, the Indian government passed the Metropolitan and Adjacent Areas Air Quality Management Commission Ordinance, 2020, which establishes a committee to coordinate air pollution control measures among the state governments of Delhi, Haryana, Punjab, Rajasthan, and Uttar Pradesh.

The Water Act of 1974 was India's first pollution control law and established monitoring bodies in each state and at the center. The Air Act transformed these bodies into Pollution Control Boards, which were given wide powers over industrial activities.

They conduct searches and seizures and take samples. They can also order the closure of businesses or cut off electricity and water.

For example, no enterprise can be established without the authorization of these committees. A separate permit is required to start operations, and another permit is required if the production process is changed. Permits include orders to install pollution control equipment, install pollution monitors, and post the latest pollution levels on a notice board. The Pollution Control Board can also initiate criminal proceedings against owners and employees of businesses that pollute the air or water.

The law covers industrial units and other point sources of pollution that do not require environmental clearance under the EIA notification, such as small and medium enterprises," Shibani Ghosh, an environmental lawyer and research fellow at the Centre for Policy Studies, who authored a note on the liability system under the law, told Mongabay-India.

[1] India's 40-year old law to combat air pollution languishes as the crisis intensifies, Nihar Gokhale, Mongabay, November,2020.https://india.mongabay.com/2020/11/indias-40-year-old-law-to-combat-air-pollution- languishes-as-the-crisis-intensifies/

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BACKGROUND OF THE AIR POLLUTION:

India, like most least developed countries, has a primitive and largely ineffective pollution control system to deal with its enormous problems. Scarce investment funds are usually spent on building industrial plants that can be built quickly and cheaply, with little attention paid to pollution control standards and equipment. India's pollution control laws are relatively weak and enforcement is haphazard[2].

Even tragedies such as the chemical explosion at the Union Carbide pesticide plant in Bhopal in December 1984, which resulted in over 2,000 deaths and countless consequences, are unsettling. It is therefore unlikely that India will establish an OSHA-like regulatory agency or enact strong legislation to regulate the use and disposal of hazardous substances. Identifying possible responses requires some understanding of the sources of legal and political power in the Indian system.

The Atmospheric Act was enacted during the heyday of environmental regulation in India: first under Indira Gandhi and then under her son Rajiv Gandhi, the central government enacted the Wildlife Protection Act of 1972, the Water (Prevention and Control of Pollution) Act of 1974, the Forest Conservation Act of 1980, and in 1986, the Environment (Protection) Act was enacted. These laws were enacted in fulfillment of the commitments made by Indira Gandhi in her famous speech linking poverty and pollution at the landmark United Nations Conference on the Human Environment held in Stockholm in 1972. Sweden was the first country to propose that the UN hold a global conference to discuss and prevent environmental pollution and degradation of natural resources. As a result, General Assembly Resolution 2398 was adopted and the UN Conference on the Human Environment was held in Stockholm in June 1972. At this conference, it was decided that countries should take measures to protect their natural resources (including the atmosphere). Therefore, the Government of India enacted special laws to protect natural resources under Article 253 of the Constitution and the law enacted to protect the atmosphere was the Air Quality (Prevention and Control of Air Pollution) Act, 1981 (Air Quality (Prevention and Control of Air Pollution) Act, 1981).

The preamble to the Act states that it is intended for the prevention, control and abatement of air

[2] C.M. Abrahan & Armin Rosencranz, An Evaluation of Pollution Control Legislation In India, 11 Columbia Journal of Emvironmental Law 101, 101-118, 1986

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pollution and that the Commission established under the Act is responsible for carrying out its objectives.

PROSPECTIVE IMPACT OF INDIA'S POLLUTION CONTROL LAWS:

From the text of the Water Quality Act and the Air Quality Act, it appears that India has a workable regulatory strategy to address both water and air pollution. However, the Act is neither enforceable nor effective, and the complex administrative structures it creates are understaffed and perform only routine administrative tasks: (a) administration of agreements; (b) structure of each pollution control board; (c) opportunities for public participation; (d) availability of judicial remedies; and (e) setting standards. Each of these five deficiencies is discussed below.

A. Consent Administration:

Prevention and control of water pollution is accomplished through "consent" or permit procedures.

Applications for the creation of new or modification of existing effluents, as well as for new discharges of sewage effluents into watercourses, must be submitted to the Control Board.29 Similar provisions are included in the Atmospheric Air Protection Act for new stationary emission sources specified in the annex to the Atmospheric Air Protection Act. Under these two laws, the Control Board can amend or supplement these conditions at any time, as well as withdraw consent.30 These supposedly broad powers have never been used and have little to do with the actual functions of the Control Board.

B. Constitution of the Boards:

The Water Act and the Air Act contain detailed provisions for the establishment of central and state commissions. A detailed analysis of the composition, powers and functions of these statutory bodies shows that they are not equipped to ensure implementation of adequate pollution control measures. Of the 7-17 members of each commission, including the Central Commission, only two - the Chairman and the Secretary - are required to have experience in the field of environment. No qualification criteria have been laid down for the rest of the nominees. The government can nominate five senior civil servants. In practice, most

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government-appointed officials are heads of institutions already overburdened with other responsibilities.

This hinders the efficiency and continuity of the council's work. The inefficiency of the councils is further compounded by the fact that all those water boards that used to be state boards are now also serving as air pollution boards. The state pollution commissions are understaffed and lack the capacity and resources to perform the various functions of the Water Act, let alone the Air Act. The Kerala State Pollution Control Board (KSPCB), one of the most active in India, has 12 professional staff, most of whom are involved in record keeping. None of them serve as controllers, inspectors or legal advisors. The Commission's annual budget barely covers the salaries of its staff and the travel expenses of the Chairman and Secretary General.

C. Public Participation:

Decision making in pollution control in India can be categorized into three main stages. Namely, the investigation stage, the permit stage and the appeal stage against administrative decisions and permit conditions passed by the State Commission. Public Participation

At each of these three stages, public participation can be invaluable. Since air and water pollution significantly affects the public, it makes sense that they should be given the opportunity to be heard at all stages of pollution control decision-making. Section 25(3) of the Water Resources Act empowers the State Commission to "make such inquiries as it considers necessary in relation to applications for consent and to follow such procedures as may be prescribed in making such inquiries". Similar provisions are contained in the Civil Aviation Act. In practice, the Council merely sends an officer to visit the premises of a consent applicant to verify the information provided by the applicant. The officer is not authorized to carry out public consultation.

D. Obstacles to Judicial recourse:

As noted, India's pollution control laws do not confer effective enforcement powers. Any person who violates permit conditions is criminally liable, but the state commission cannot impose fines or other penalties on its own. The state commission must initiate prosecution with the assistance of a state (public) prosecutor. Such prosecutions are costly, uncertain, time-consuming, and

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rarely result in a conviction.

E. Setting of Standards:

For air and water quality standards to be enforceable in court, they must be clearly and unambiguously stated. Since standard setting involves broad administrative discretion, both laws are expected to have detailed procedural requirements. Under the Water Quality Act, the State Commission is the standard-setting body: "No person shall knowingly cause or permit the discharge of poisonous, noxious, or polluting substances determined in accordance with standards established by the State Commission." The actual standards in a particular area depend on the number and type of industries, their location, and the amount of water in the river. However, Sections 24-26 of the Water Act provide little guidance to the Commission in setting appropriate standards. The Air Act has no similar provisions for various special standards.

SOURCES OF AIR POLLUTION:

Among the pollutants, PM2.5 exceeds the standards the most, followed by PM10, NO2, CO and ozone. The only pollutant that meets national standards is SO2. These pollutants come from a variety of sources and in varying proportions[3].

These include vehicle exhaust, heavy industry including power generation, small-scale industry including brick kilns, suspended dust on roads from vehicle traffic and construction activities, outdoor burning of waste, burning of various fuels for cooking, lighting and heating, and on-site power generation using diesel generators. In addition, there is seasonal exposure to dust storms, forest fires, forest fires during harvesting season and sea salt in coastal areas. In urban India, most of the air pollution is due to combustion of diesel, petrol, gas, coal, biomass, waste and suspended dust, which occurs throughout the year.

1. burning of fossil fuels
2. industrial emissions
3. indoor air pollution
4. forest fires

[3] Air Pollution in Indian Cities: Understanding the causes and the knowledge gaps, Sarath Guttikunda, Centre for policy Research, December, 2017 https://www.cprindia.org/news/air-pollution-indian-cities-understanding-causes-and-knowledge-gaps

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5. microbial decomposition processes
6. transportation
7. open burning of waste
8. construction and demolition of buildings
9. agricultural activities
10. use of chemical and synthetic products

Air pollution is generally caused by the burning of fossil fuels such as coal, oil, and gasoline. Air pollution results from the release of carbon monoxide and toxic pollutants into the atmosphere. The increase in transportation leads to an increase in the amount of pollutants in the air, resulting in air pollution in our country.

AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981:

The purpose of the Air Quality Act 1981 is to maintain air quality and prevent air pollution. Chapter 3 of the Act deals with the powers and functions of the Commission. There are two Commissions - the Central Commission and the State Commissions. To advise the Government on all matters relating to the improvement of air quality, prevention, control and abatement of air pollution; to plan and implement programs for prevention, control and abatement of air pollution; to collect, compile and analyze information. The principal functions of these authorities are to publish, prepare guidelines, standards and handbooks for the prevention, control and abatement of air pollution; to establish air quality standards; to inspect control points, industrial plants and manufacturing processes at reasonable times; to inspect and issue directions by order to such plants. Where necessary, they may inspect air pollution control zones, assess the air quality in such zones and take measures to prevent, control and reduce air pollution. The Central Commission and the State Committees shall work in cooperation with each other. While the Central Commission works at the national level, the state committees work within the state. Similarly, Chapter 4 deals with prevention and control of air pollution. The State Government in consultation with the State Commission may declare any area or areas within the State as an air pollution control zone or zones for the purposes of this Act and may also modify the air pollution control zones by enlargement or reduction, create one or more existing air pollution control zones or parts of air pollution control zones or may declare a new air pollution control

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zone which may merge one or more existing air pollution control zones or parts thereof.

SECTION-2 OF THE AIR (prevention and control of pollution), ACT, 1981:

Section-2(a):

"air pollutant" means any solid, liquid or gaseous substance [2] [(including noise)] present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment;

Section-2(b):

"Air pollution" means the presence in the atmosphere of any air pollutant

POWERS AND FUNCTIONS OF THE POLLUTION CONTROL BOARDS:

POWERS:

1. Power to declare Air Pollution Zones Under Section 19 of the Act, the State Government, after consultation with the State Commission, may declare certain areas of the State as 'Air Pollution Zones'. The State Government may also order the expansion or contraction of an air pollution zone or the amalgamation of one or more zones to form a new air pollution zone or part thereof.
2. Power to impose restrictions to ensure emission norms of motor vehicles: section 20 provides that the State Government, after consultation with the State Commission, may issue directions to the authority responsible for registration of motor vehicles under the Motor Vehicles Act, 1939 and the said authority shall be bound to comply with such directions. This is to ensure compliance of emission norms specified in section 17(1)(g).
3. Restrictions on use of certain industrial undertakings Article 21 deals with the establishment of industrial undertakings subject to the consent of the concerned State Commission. Article 21 regulates the procedure for submitting an application to the State Commission, following which a decision is made and the applicant is notified of the grant or refusal of authorization to establish an enterprise. It also specifies the conditions for the establishment of an enterprise.

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4. Persons operating industries etc. are not allowed to emit pollutants into the atmosphere in excess of the norms prescribed by the State Commission: article 22 states that persons operating industries are not allowed to emit pollutants into the atmosphere in excess of the norms prescribed by the State Commission.
5. Under Article 22A, if the State Commission finds that a person operating an industrial establishment in an air pollution zone is emitting excessive emissions, it may approach the court to restrain that person from emitting air pollution. 5. may.
6. informing the State Commission and other authorities Article 23 stipulates that if, as a result of an accident or unforeseen circumstances, emissions exceed the prescribed limits, the person operating an industrial enterprise shall inform the State Commission or other relevant authorities and take remedial measures as soon as possible.
7. Authority to enter and inspect Persons authorized by the State Commission under section 24 shall have the right to enter any place to perform the duties assigned to them. The person in charge of these installations, plants, entries, etc., shall assist the State Commissioners in the performance of their duties. Failure to do so shall be an offense.
8. Power to obtain information Section 25 provides that the State Commission or any person authorized by it shall have power to seek information from any person operating such plant or equipment as to the type and emission of air pollutants produced by such plant or equipment. They shall also conduct inspections to verify this information.

FUNCTIONS:

- The Board may work for the prevention, reduction and control of air pollution in the country and advise the Central Government.
- Plan and implement national programs for prevention, control and abatement of air pollution.
- Coordinate the activities of the states and resolve disputes arising between them.
- State Commissions provide technical assistance to their committees and conduct research and studies on air pollution problems.
- State commissions plan and implement comprehensive programs to prevent, control and reduce air pollution. They also advise state governments on these matters.
- The State Commission collects and disseminates information on air pollution. It organizes training and awareness programs for prevention, control and abatement of air pollution.
- The Air Pollution Control Board inspects air pollution control installations, industrial units and

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manufacturing processes at appropriate times and issues directions to the responsible persons to control air pollution.

PENALTIES:

Under section 37, any person who fails to comply with the directions contained in sections 21, 22 and 31A is liable to imprisonment for a term of one year and six months. This period may be extended to six years and if the provisions of the above sections are still not complied with, a daily fine of R5 000 may be imposed.

Section 38 provides penalties for certain acts. Such acts include.

1. destroying, defacing, damaging or removing etc. any post, post, stake or bollard fixed in the ground under the authority of the council
2. obstructing a person acting under the authority of the board in the exercise of his powers or duties under the Act
3. causing damage to the property of the board; or
4. failing to provide information required by an officer or employee of the Board to such officer or employee
5. failing to report any excess emissions in excess of thresholds established by the State Board. 5. is required to report to the State Board even if there are concerns about excess emissions.
6. makes false statements to the State Board when providing information to the State Board bodies
7. providing false information to the Council in order to obtain a permit under Article 21, i.e. a permit to install an industrial installation.

These offenses are punishable by imprisonment for a term not exceeding three months, a fine not exceeding R10 000 or both.

ENVIRONMETAL PROTECTION ACT, 1986:

The Environment Protection Act was enacted in 1986. Prior to the enactment of this Act, India had a Department of Environment established in 1980, which became the Ministry of Environment and Forests in 1985. Similarly, the Air (Prevention and Control of Pollution) Act

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was enacted in 1981. The purpose of this Act is to take appropriate measures for the protection and improvement of the environment and prevention of hazards.

The purpose of this Act is to take appropriate measures for the protection and improvement of the environment and to prevent hazards to human beings and other living beings, plants and property. The Act defines 'environmental pollution' as the presence of environmental pollutants in the environment and 'environmental pollutant' as any solid, liquid or gaseous substance present in concentrations which are or may be harmful to the environment.[4] The Central Government shall maintain and improve the quality of the environment and prevent and control environmental pollution as it deems necessary. It shall have the power to take all measures it considers necessary to maintain and improve the quality of the environment and to prevent and control pollution of the environment, to prohibit and restrict the handling of hazardous substances in various areas, to prohibit and restrict the location of industries and the carrying out of processes and operations in various areas, to conduct and sponsor research and study of pollution problems, to protect the prevention of accidents which may cause pollution of the environment, and to take In addition, Chapter 3 describes methods of preventing, controlling, and remediating environmental pollution. This chapter prohibits any person from discharging or authorizing the discharge of pollutants into the environment in excess of established standards, or handling or authorizing the handling of special hazardous substances in accordance with established procedures and in compliance with safety measures, when carrying out an industrial activity or process. Any person who fails to comply or commits an offense is liable to imprisonment for five years or a fine of up to R1, or both, and in the case of non-compliance or a continuing offense, upon conviction of the first non-compliance or continuing offense, is liable to a fine of up to R5 000 per day. Finally, if the offense continues for more than one year from the date of conviction, it is punishable by imprisonment for a maximum of seven years.

In addition, if a company commits an offence under this Act, every person who, at the time of the commission of the offence, was directly in charge of the company and responsible to it for the conduct of its affairs, including directors, managers, secretaries and other officers of the company, as well as the company itself, shall be deemed guilty of the offence and shall be prosecuted and punished accordingly The company shall be prosecuted and punished

[4] https://www.enr.gov.nt.ca/en/environmental-protection-act

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accordingly.

LANMARK JUDGEMENTS:

M.C. MEHTA v. UNION OF INDIA (Taj Trapezium Case)

Huge numbers of industries were around Taj Mahal. The main responsible factors for polluting the ambient air around Taj Mahal are industrial/refinery emissions, brick-kilns, vehicular traffic and generator-sets. The petition states that the color of marble has converted from whitish to yellowish and blackish. On 30th of December 1996 and the bench consisted of Justice Kuldip Singh and Justice Faizan Uddin gave the final verdict in this case. Taj Mahal, which is one of the world heritage sites as declared by UNESCO, has been source of revenue to the country because it has capacity to attract tourist throughout the world. The court was of the view that The Taj Mahal is a masterpiece and has international reputation. It is also an important source of revenue to the country because of the huge tourist attraction it commanded. So, there won't be compromise regarding its beauty. The industries were supposed to relocate far from Taj Trapezium.

Principles laid down in this case are-

Sustainable development– Development of industry is essential for economy but at the same time environment has to be protected. Hence, the object behind this litigation is to stop the pollution.

Precautionary principle– the pollution created as an outcome of development so the state must anticipate, prevent and attack the harm caused to the environment.

Polluter pays principle– the court interpreted the principle in order to mean that the absolute liability to harm the environment is not only to compensate the victims of pollution but also for restoring the cost of environmental degradation.

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M.C. MEHTA v. UNION OF INDIA[5]

- In the present case, Mr. M.K. Mehta has filed a writ petition in connection with air pollution by vehicle exhaust fumes. He urged the court to pass appropriate orders to prevent pollution.
- The Court held that protection of environment is an express principle of State policy and a duty of the State enshrined in Articles 48A and 51A of the Constitution. The Supreme Court held that the right to a healthy environment is a fundamental human right which includes the right to clean air under Article 21 of the Constitution. The court thus extended the scope of Article 21 to include the right to a healthy environment and clean air as a fundamental human right.
- This paved the way for the supply of unleaded petrol in Delhi and the introduction of compressed natural gas (CNG). The court also assisted in setting up a committee to find a lasting solution to the problem of air pollution in Delhi as well as the litigation.
- Similarly, in Subhash Kumar v State of Bihar6 it was held that the right to life under Article 21 includes the right to a healthy and safe environment. Municipalities and other public authorities have a duty to take positive measures to ensure a healthy environment.

M.C. MEHTA v. UNION OF INDIA[7] (Shri Ram Fertilizer's case)

Late in the evening of February 3, 1984, a toxic gas leak occurred at a Union Carbide Corporation plant in Bhopal, Madhya Pradesh. The accident, dubbed "the world's worst industrial disaster," killed 2,260 people and seriously injured about 60 million people and caused various complications. On December 4 and 6, 1985, while the case was pending in the Supreme Court, another gas accident occurred at Shri Ram Huz and Fertilizer Industries Ltd. in Delhi. Two advocates died, several persons were injured and M.K. Mehta, as the principal practicing advocate in the Supreme Court, filed a public interest litigation.

Judicial Petition under Article 32 of the Constitution Following the major gas disaster in Bhopal a year ago, the Supreme Court adopted new rules on strict liability.

[5] 1991 SCR (1) 866
[6] 1991 AIR 420
[7] 1987 AIR 1086

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The court laid down the following principles Shri Ram Foods had to deposit $20 million with the court as security for compensation to the victims. A green belt of 1-5 km width should be created around such industries. The court directed the central government to set up an environmental court consisting of one judge and two experts to assist the judge in hearing environmental cases. In line with this recommendation, the Government of India enacted the National Environment Courts Act, 1955 to deal with pollution cases.

CURIOUS CASE OF DELHI:

The Indian government has declared a state of emergency and temporarily closed construction sites, schools and coal-fired power plants in Delhi due to severe air pollution from toxic substances. Delhi-based non-governmental organization Center for Science and Environment announced that the Indian capital has recorded the worst air pollution in 17 years.

The Delhi government has also directed farmers not to burn agricultural waste. The Delhi government is preparing to reintroduce a temporary system under which car traffic is allowed only on even or odd days, depending on the last digit of the registration number. The number of patients with respiratory diseases in city hospitals is rising: in 2012, 159 out of every 100,000 people died from respiratory diseases, according to the World Health Organization (WHO), making India the country with the highest mortality rate in the world.

- Air pollution in Delhi has been a serious problem for many years, but came into the spotlight in the 1990s with the enactment of the Pollution Prevention Act of 1981, the establishment of the Pollution Control Board, and the enactment of additional environmental protection laws.
- In 1996, the Supreme Court issued a special order requiring the Delhi government to submit an action plan to ensure clean air; a lawsuit filed by M.K. Mehta and public outcry over the state of the air further exacerbated the problem. The Environmental Pollution Prevention and Control Agency (EPCA) was set up along with the National Clean Air Program (NCAP).
- Based on the EPCA report, the Supreme Court issued an order banning the use of compressed natural gas (CNG) vehicles. This was a major success.
- However, over the years, the number of vehicles has increased from 4.24 million in 2004

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to over 10.8 million in March 2018, and there has been an increase in burning of stock and construction activities (many of which are illegal).

- Over the years, monitoring stations have been set up across Delhi to measure particulate matter in the air, measures such as the even-number scheme and Supreme Court orders banning the use of clappers and construction work have been implemented, while public awareness and efforts have steadily increased.
- In 2016, after heavy smog wreaked havoc in Delhi, the Supreme Court again asked the state government to come up with a plan to combat such episodes of air pollution. This plan came to be known as the Gradual Response Action Plan (GRAP).
- Under this plan, through monitoring and measurement of air quality in Delhi, areas of high pollution are identified, problems in these areas are identified and local action is devised.
- Undoubtedly, Delhi suffers from an air crisis every year. It must be realized that it is caused due to a number of factors that require massive action.

BHOPAL DISASTER CASE[8]:

The worst industrial accident in history occurred on December 3, 1984. About 40 tons of methyl isocyanate (MIC) gas mixed with other toxic gases at a chemical plant owned and operated by Union Carbide (India) Ltd. The accident killed at least 3,800 people and injured several others. As a result of the accident, the victims suffered from burning in the throat and eyes and nausea as the gas was low to the ground. People exposed to toxic gases still have children born 30 years later with physical and mental disabilities.

Union Carbide paid $470 million to the Indian Union to fully settle all claims, rights and liabilities related to the Bhopal gas incident. The Supreme Court awarded Union Carbide compensation on the basis of strict liability. This is a comparatively small amount when compared to the crimes that have long term consequences on human existence in this place. Even after this disaster, India continued to undergo rapid industrialization. Despite some positive changes in government policies and the behavior of some industries, in 1990.

significant environmental hazards associated with rapid and unregulated industrial growth

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remain. Widespread environmental degradation continues to adversely affect human health throughout India.

CONCLUSION:

The concept of sustainable development arose from challenging the concept of rapid development. For example, if someone cuts down a tree, two or more trees should be planted. The concept of sustainable development was born out of the idea of protecting the environment. Sustainable development should be done in such a way that it is enough for a long time and future generations are not involved in the problem. However, in India, the situation is the opposite. The pace of development is very high. But at the same time it is not possible to maintain clean air. There are laws, precedents, regulatory bodies, but the air quality situation continues to deteriorate. Many people are dying of respiratory diseases and lung cancer. Urban areas, especially those with large populations where people come from different parts of India in search of amenities, are very polluted. The average life expectancy of people in India may become less than at present.

Although the Environment Protection Act, 1986 and the Air Pollution Control Act, 1981 provide for preventive measures, regulatory commissions, fines and compensation, the precedents set in the Bhopal disaster case and MC Meheta v Union of India show that air pollution is not decreasing but increasing. The situation is not only worsening but also getting worse. Thirty years have passed since the enactment of the above-mentioned laws and there has been no improvement in the air quality and the environment in general. From this point of view, it is clear where the problem lies - in the law itself or in its implementation. And the problem lies in both the law and its implementation.

The law overwhelmingly gives the Commission discretionary authority to plan and conduct surveys and studies. In particular, it fails to address issues such as removing old cars, landscaping roadsides, dust control, and stopping waste incineration. Therefore, officials are silent and passive. That's why officials are silent and passive. If the law was clear on every issue, they would be forced to take action against such practices.

Similarly, if the authorities had planned to locate industrial zones away from human settlements, world heritage sites and cities, the problems would not have arisen. Due to lack

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of planning, first the industry pollutes the environment, then a legal action is filed, e.g. MC Mehta v Union of India, and the court orders the relocation of the industry. Here there seems to be a problem with its implementation. Thus, if the air is not clean, the right to life of the citizens will be seriously violated.

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