

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIAL TEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

INDIA'S ENVIRONMENTAL PROTECTION vis-à-vis EUROPEAN UNION'S

AUTHORED BY - HARSHKUMAR PENDHARKAR
& VISHVAJEET PALANDE

Abstract

India has consistently had environmental and climate change challenges. However, recent collaborations with the European Union have allowed India to enhance its policies and activities addressing this worldwide issue. Furthermore, the European Green Deal, which strives to adopt policies and strategies for environmental improvement, presents India with several prospects for environmental growth and development. This, however, has not been fully acknowledged by India. While India has already implemented many components of this agreement, it still has a long way to go to satisfy the global requirements for environmental protection and climate neutrality.

This doctrinal research is based on national and international reports, summits, and modern culture in an attempt to comprehend India's attitude toward the environment and the lessons that the European Union may provide. The benefits that India stands to gain from this partnership and the European Green Deal have also been extensively examined, taking all other factors into account. The original study conclusion challenges our environment's status quo and assists in recognising the importance of this external party to the growth of India's environment.

KEYWORDS: European Union-India Partnership, Environment, European Green Deal, Paris Agreement, Opportunities for India

Introduction

Since time immemorial, the *European Union* (hereinafter referred to as 'EU') has been exceedingly clear about its aims, the most important of which is its intention to lead global action against climate change. This objective has resulted in several national and international policies being implemented. The *European Green Deal* (referred "EGD"), which was enacted in December 2019, is the most important of the bunch. This climate policy, introduced by the *European Commission's designate president, Ursula von der Leyen*, elaborates on 20 proposals covering a wide range of

issues, such as raising the EU's 2030 emissions reduction target to 55% from 40%, instituting a carbon border tax, developing a Sustainable Europe Investment Plan, and so on¹.

While the EU upholds its regulations, India is dealing with a number of environmental issues. In 2019, *the Indian Think Tank, Teri School of Advanced Studies*, conducted a poll on young people's impressions of government performance sustainability. They came to the conclusion that environmental pollution was the country's most significant development obstacle. Consumption, population and its needs, income-driven demand, industrialization, and other factors have all had a role in the country's present environmental state².

The onset of COVID - 19 and the associated public health concern resulted in a mixed alteration in the status quo. While many assessments show that environmental conditions in the country have improved, some do not. During the epidemic, there has been a spike in the number of items consumed and incorrectly disposed, including facemasks, sanitizers, and gloves.

While India's current environmental situation is not ideal, the regeneration opportunity afforded by COVID - 19 may help it evolve. It should be noted that the author does not support the epidemic or its devastating consequences; instead, he believes that the country should make the best of the situation.

This paper seeks to analyse this partnership in the context of the environment, as well as to comprehend the scope of development and opportunities in India's environmental sector as a result of this partnership, while taking into account the numerous factors that influence it and the limited empirical literature on the subject.

Current Environmental Condition of India

It is hardly surprising that India's environmental condition has historically shifted from bad to below-average. According to the *World Air Quality Index 2020* study issued by the Swiss organisation IQAir, India is the third most contaminated country for PM 2.5 in the air. It should be mentioned that this report was written after India's air quality improved in 2020 as a result of COVID - 19. According to the study, the air quality in New Delhi has improved by at least 15%

¹ Gregory Claeys, Simone Tagliapietra, Georg Zachmann, *How to make the EGD work*, BRUEGEL, Nov 2019, at 1, 2.

² Rekha Dixit, Environmental pollution is the biggest development challenge: Survey, *The Week* (May 9, 2019, 04:34 PM), <https://www.theweek.in/news/sci-tech/2019/05/08/Environment-pollution-biggest-development-challenge-left-unaddressed-by-the-govt-say-youth.html>.

in the last year. Despite this development, it remains one of the most polluted capital cities in terms of PM 2.5 levels in the air³.

Apart from a lack of knowledge, the lack of execution and non-compliance with regulations and decrees has had a significant impact on India's present environmental situation. Taking this conclusion into consideration, research was conducted to analyse the enforcement of court orders in Delhi. Over a thousand business units in Delhi were ordered to be closed and relocated as part of the directives. According to reports, while some enterprises were liquidated and others transferred in compliance with the directive, a large number of factories remained operational at their former locations. There is an essential need to rectify this situation, and collaboration between the EU and India may make that possible.

EU-India Partnership

This partnership between these two titans has resulted in a worldwide awareness and recognition that global action against climate change cannot be accomplished alone. They emphasised the need of a potential concerted approach to combat climate change and environmental degradation. The summit set the way for the approval of several environmental development targets and methods for their execution⁴.

The EU-India Clean Energy and Climate Partnership is one such strategy that would not only strengthen these two entities' ties, but would also aid India's energy transformation. This collaboration, formed in 2016, seeks to improve and extend cooperation in clean energy and the implementation of the Paris Agreement in areas such as energy efficiency, renewable energy, smart grids, storage, sustainable financing, climate mitigation, and climate adaptation. The issue was examined at the 16th India-EU Summit, and it was revealed that renewable energy deployment, energy efficiency, and other factors need to be improved. Furthermore, the deepening of this sustainable modernization partnership was explored, with a particular emphasis on the connection between *Resource Efficiency and Circular Economy*⁵.

³ IQAir, <https://www.iqair.com/world-air-quality-report> (Last visited Oct 01. 2022).

⁴ Tahir Ashraf Siddiqui, *Professor Papiya Ghosh Memorial Prize: ENVIRONMENTAL POLLUTION, LEGAL FRAMEWORK AND CHALLENGES: SUSTAINABLE DEVELOPMENT AND ITS PRACTICE IN CONTEMPORARY INDIA*, 70 PROCEEDINGS OF THE INC 1110, 1113 (2009).

⁵ Chantal Thomas, *From International Trade to International Economic Law; Balance-of-Payments Crises in the Developing World: Balancing Trade, Finance and Development in the New Economic Order*, 15 AM. U. INTL L. REV. 1249 (2000).

This partnership was already mentioned in the *EU-India Joint Declaration on Resource Efficiency and Circular Economy*, which was approved during the 2017 summit. The goal of this strategy is to reduce primary resource use while pursuing non-toxic material cycles. It also emphasises the use of secondary raw materials in post-COVID - 19 recovery activities to accelerate this change.

COMMENTARY

While substantial implementation of these strategies and development plans has yet to occur, it is certain that this connection has created interdependent responsibility. The European Union has held India accountable for the appropriate implementation of the negotiated plans, and India has done the same. Furthermore, it is crucial to recognise that the implementation of these strategies will be heavily relied on intellectual property, and it comes as no surprise that both of these sides are fierce intellectual property rivals. While not expressly mentioned, the many agreements between the two on the renewal of the EU and India's agreement on scientific and technical cooperation, among other things, have suggested the same.

This is reasonable, but more focus must be placed on educating India's tremendous manpower to bridge the knowledge and skill gap that exists between the two sides. This improvement in skills will not only improve how tangible and intangible resources are used, thereby assisting in environmental goals, but will also provide the country with trained manpower to expand the scope of environmental protection in the private and public sectors in relation to the Circular economy model and resource efficiency agenda.

Opportunities for India

While there is multiple opportunities India can avail with this partnership and the European Green Deal, three stand out;

Carbon Markets

Article 6 of the Paris Agreement emphasizes that certain parties opt to seek voluntary cooperation in the execution of their commitment in order to achieve higher targets in their mitigation and adaptation efforts, as well as to promote sustainable development and environmental integrity⁶. It is expected that market-based methods will play a larger role in the execution of this article. In the context of climate change, it refers to the process of establishing emission limitations across many industries.

⁶ Article 6, The United Nations Framework Convention on Climate Change, 2015.

The EU ETS (European Union Emissions Trading Scheme) is a platform by which India must learn and implement a national ETS. As a result of this partnership and the EGD, there can be a reciprocal exchange of information⁷.

Sustainable Finance

The EU has launched an international platform on sustainable finance in association with major developing countries to help scale up private capital investments towards environmentally sustainable investments. India, being a part of this platform has implemented the *Business Responsibility Reporting (BRR)*. The purpose of this implementation is to improve responsibility to stakeholders while also ensuring that these investments are ecologically sustainable. As a result, it can be concluded that, in order to achieve the EGD objectives, facilitating private sector investments for a transition to a climate-neutral, just, and resource-efficient economy is critical.

The Just Transition

The EGD has recommended a *Just Transition mechanism*, including the establishment of a Just Transition Fund. This mechanism is designed to protect employees and their livelihoods in the fuel extraction, delivery, and consumption networks. This will allow the fund to support new entrepreneurial possibilities in environmentally friendly firms. However, this technique is only available to European Union member states.

However, India is currently transitioning to a system that uses cleaner and more feasible energy, and while this transformation will benefit the environment, it will have socioeconomic consequences.

Thus, expanding this system will help to safeguard workers and enforce mechanisms such as climate financing in India.

Conclusion

The EGD not only brings the EU one step closer to attaining one of its most important goals - environmental protection - but it also allows India to achieve its goal of environmental conservation. With the implementation of the EGD, the importance of environmental protection in the EU has increased at least twofold, and with the growing relationship between India and the

⁷ Souvik Bhattacharjya, *The EU “Green Deal”: An opportunity to strengthen EU-India relationship*, KAS-MDPD 2020, at 1, 8.

EU, the same has now traversed to India, where steps and policies to improve its environmental state have been taken consecutively⁸. Thus, the chances provided by the EGD not only allow India to improve ecologically, but also assists India in developing its economy, society, and business sectors to expand and reach global standards.

As aforementioned, India is in a tough situation, both environmentally and economically, but with these collaborations, this can and has been changing. Furthermore, the scope of these plans and efforts for India's growth and development is vast, and they must be effectively exploited to guarantee that this partnership is beneficial to both parties.

References

Cases

1. I.B.V & Cie SA (Industrie du bois de Vielsalm & Cie SA) v. Walloon Region, (Case C-195/12). 10
2. Lies Craeynest and Others v. Brussels Hoofstedelijk Gewest and Others, C-723/17. 10
3. Procureur de la République v. Association de défense des brûleurs d’huiles usagées (ADBHU), EU:C:1985:59..... 10

Statutes

1. Article 6, The United Nations Framework Convention on Climate Change, 2015 9

Journal Articles

1. Chantal Thomas, *'From International Trade to International Economic Law; Balance-of-Payments Crises in the Developing World: Balancing Trade, Finance and Development in the New Economic Order'*, 15 AM. U. INTL L. REV. 1249 (2000). 5
2. Gregory Claeys, Simone Tagliapietra, Georg Zachmann, *How to make the EGD work*, BRUEGEL, Nov 2019, at 1, 2. 4, 9
3. Tahir Ashraf Siddiqui, *Professor Papiya Ghosh Memorial Prize: ENVIRONMENTAL POLLUTION, LEGAL FRAMEWORK AND CHALLENGES: SUSTAINABLE DEVELOPMENT AND ITS PRACTICE IN CONTEMPORARY INDIA*, 70 PROCEEDINGS OF THE INC 1110, 1113 (2009)..... 6

Reports

⁸ Lies Craeynest and Others v. Brussels Hoofstedelijk Gewest and Others, C-723/17.

1. IQAir, <https://www.iqair.com/world-air-quality-report> (Last visited Nov. 18, 2021).. 5
2. Media Center, *EU-India Joint Declaration on Resource Efficiency and Circular Economy*, MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA (Jul. 15, 2020), https://www.mea.gov.in/bilateral-documents.htm?dtl/32829/EUIndia_Joint_Declaration_on_Resource_Efficiency_and_Circular_Economy..... 7
3. [documents.htm?dtl/32828/IndiaEU_Strategic_Partnership_A_Roadmap_to_2025](https://www.mea.gov.in/bilateral-documents.htm?dtl/32828/IndiaEU_Strategic_Partnership_A_Roadmap_to_2025)..... 5
4. Media Center, *Joint Statement on India-EU Leaders' Meeting (May 08, 2021)*, MINISTRY OF EXTERNAL AFFAIRS, GOVERNMENT OF INDIA (May 8, 2021), https://www.mea.gov.in/bilateral-documents.htm?dtl/33853/Joint_Statement_on_IndiaEU_Leaders_Meeting_May_08_2021..... 7

News Articles

1. Rekha Dixit, *Environmental pollution is the biggest development challenge: Survey*, *The Week* (May 8, 2019, 04:34 PM), <https://www.theweek.in/news/sci-tech/2019/05/08/Environment-pollution-biggest-development-challenge-left-unaddressed-by-the-govt-say-youth.html>..... 4

IJLRA