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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.

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INDIAN ENVIRONMENTAL LAWS: WHY WEREN'T THEY IMPLEMENTED?

AUTHORED BY - PRIYANKA MADERNA¹

& DR. RITUJA SHARMA²

Abstract:

The paper studies and tries to address the numerous causes of the poor execution of the laws and how it might be changed. The study is done for both air pollution and water contamination and the reasons for the inefficiency Of the environmental regulation to combat the Air and water pollution. The authors have tried to suggest the way forward.

Keywords: Environmental Pollution, Air Pollution, Inefficiency of Air Act, Water Contamination, Inefficiency of Water Act, Reasons of Ineffectiveness

1. Introduction

The importance of environmental regulations in promoting sustainable development cannot be overstated. It offers a legal foundation for defending both people and the environment. The effectiveness of governmental institutions is also reflected in the drafting of environmental legislation and the state of their implementation. But it is becoming more and clearer that we have not carried out environmental legislation.

According to the UN research, "Environmental Rule of Law," the insufficient enforcement of environmental laws has been a global trend over the past forty years, according to the first-ever global evaluation of environmental rule of law. It also claims that a lack of political will is one of the biggest obstacles to putting environmental laws and regulations into effect.

In India, the preservation of the environment has been elevated to the rank of a basic legislation. Every person has the fundamental right to live in a pollution-free environment under the Indian

¹ Research Scholar, Faculty of Law, Banasthali Vidyapith, Newai, Tonk, Rajasthan, India-304021

Corresponding Author E-mail- p.maderna@gmail.com, Phone no-+91-9971562407

² Associate professor, Faculty of Law, Banasthali Vidyapith, Newai, Tonk, Rajasthan, India-304021

Constitution. We have legislative and constitutional protections for the environment that adhere to the sustainable development paradigm.

Although the term "environment" is not specifically mentioned in the Indian Constitution, Article 21 of the Constitution guarantees the right to life and personal freedom, and Article 47 of the Constitution places the primary responsibility for improving public health and nutrition—which raises living standards—on the State.

The Supreme Court of India has established the "Precautionary principle" and the "Polluter Pays Principle" as fundamental components of "sustainable development," taking inspiration from the Stockholm Declaration. The Constitutional provisions, general laws (IPC, CrPC), special acts (more than 300 acts, including IFA, WPA, EPA, Air Act, Water Act, FCA, National Green Tribunal 2009, etc.), and other legislation all contribute to India's legislative framework for environmental protection & Policies (National Forest Policy, National Agriculture Policy, National Environment Policy, 2006).

This demonstrates that there is no shortage of environmental protection legislation in India, but despite all of these laws, it is becoming more and more obvious that we have significantly altered the ecosystem, started to exhaust the naturally occurring resources, and polluted the environment, making it difficult for all living organisms to live a quality life in their ecosystem. Despite having a lot of rules, India reportedly has a significant issue with environmental protection. India was placed 177th out of 180 countries in the 2018 Global Environment Performance Index rankings for failing to improve the environment's air quality and failing to lower greenhouse gas emissions. This is mostly due to "poor implementation" of the legislation in actual practise. Indian regulations are insufficient to address water contamination.

As a healthy environment to live in is the main concern for the people today, this paper will address the numerous causes of the poor execution of the laws and how it might be changed.

2. Insufficient regulations to combat Air Pollution

India's air pollution problem is becoming worse and has spread across the country, killing 1.2 million Indians annually and costing the economy an estimated 3% of GDP. In recent years, air pollution has become one of India's most serious environmental issues. Particulate matter

concentrations frequently far exceed the approved national and international norms, with serious consequences for public health. India alone saw an estimated 1.2 million premature deaths brought on by air pollution in 2019.ⁱ Recently, the PM_{2.5} levels in New Delhi's air exceeded the acceptable limit by more than 20 times, making the air exceedingly hazardous.

3. Insufficient regulations to combat water contamination

Let's not forget the surface water. As per the reports about 70% of India's surface water resources and an increasing percentage of its groundwater reserves have hazardous contaminants in them, making water pollution a severe issue. Another significant problem is the dumping of industrial hazardous waste and municipal solid waste (MSW) in land pits. India has a serious problem with water pollution; biological, toxic, chemical, and inorganic contaminants have contaminated nearly 70% of the country's surface water resources and an increasing portion of its groundwater reserves. In many instances, these sources have become unsafe for use in industrial applications as well as other purposes like irrigation. This illustrates how poor water quality increases the need for water by decreasing its availability for both human and environmental usage.ⁱⁱ

The infamous example of uranium poisoning in Punjab is seen in the poisonous pollution of the soil that caused significant deformities in the local children. With increased anthropogenic deforestation, our forests are deteriorating at a frightening rate. Overall, India's environment is deteriorating, making it challenging to live a good life in a healthier and safer setting. According to the Groundwater yearbook 2021–22, Punjab is the worst impacted state in India, with 29% of the wells being found to have uranium concentrations over the legal limit of 30 parts per billion. 2022 is the projected year by the National Compilation of Dynamic Ground Water Resources of India., “States like Rajasthan, Haryana, and Punjab are at a fairly advanced level of groundwater exploitation.” It added, “In Punjab, out of the total of 150 evaluated blocks and the three urban areas (total 153) taken for research, 114 blocks and the three urban areas (total 117) have been classified as over-exploited, four blocks as critical, 15 blocks as semi-critical, and 17 blocks as safe.” The Board of Research in Nuclear Sciences at the Bhabha Atomic Research Centre (BARC), Mumbai, carried out an all-India mapping effort, according to Dr. Sunil Mittal, head of the School of Environment and Earth Sciences at Central University of Punjab, Bathinda, “The whole amount of dissolved uranium present in groundwater is not radioactive. There is no proof that it can directly cause cancer in people. However, renal and intestinal function may be impacted by uranium pollution of groundwater. It gathers in our hair and nails. In addition to other illnesses,

it can cause premature hair greying. It could potentially contaminate shallow groundwater supplies and topsoil.”ⁱⁱⁱ

The situation is far worse in India than in any other modern nation; even the government-established acceptable requirements for drinking water are not being met here. Although we are unable to meet them, the government's regulations are relatively sufficient to address water contamination. The fact that water contamination has been much reduced from earlier periods because to increased public awareness is one thing to be applauded.

In order to effectively monitor, India urgently needs to have more monitoring stations than wealthy countries do. Additionally, the current scope of monitoring is only confined to conventional pollutants (such as BOD, total suspended solids, faecal coli form, and oil and grease), and it must be broadened to include non-conventional pollutants like ammonia, chlorine, and iron as well, all of which have dangerous effects on human health. Monitoring duties must be delegated to the states and then to local entities at the local level for effective regulation to take place.^{iv} It is believed that around 21 cities will not have any groundwater left after 2020 if the situation remains the same^v.

4. Reasons of Ineffectiveness

The ineffectiveness of environmental regulations to preserve the environment is the cause of this, and the grounds for the inefficiency include:

- i. The environmental governance is administered by the Ministry of Environment Forest and Climate Change (MoEF) and it only looks after the implementation of the environmental legislations. In the absence of an independent regulatory authority for governing the environmental laws there is inference and excessive control in the hand of government and this leads to poor implementation of laws.
- ii. The inadequate penalties for non-compliance of the standards set by the pollution control boards have led to the inefficiency of the pollution control mechanisms. According to the India's Comptroller and Auditor General's report “Indian Water Pollution Performance Audit” 2011–12 report^{vi} The cost of infractions and non-compliance under the Water Act of 1974 is so less that it is more expensive to comply. The 1981 Air Act is similar in this regard. There is a recognised principle^{vii} which states that the polluter is responsible for covering both the cost of the pollution and the

cost of restoration, although this concept is seldom ever used in the existing system.

Therefore, it is necessary to raise the fine that is imposed by the legislation.

- iii. The pollution control boards both at the central and state level are under the control of the respective governments with regards to the appointment of their offices and members. In fact, the decisions taken by the boards could be changed by the government resulting into the ineffectiveness of the respective pollution control boards.
- iv. The pollution control board lacks the power to impose the penalties ordered by them. The penalties could be imposed only by the court. This has resulted into the ineffectiveness of the pollution control mechanism as the litigation process is time consuming.
- v. The pollution control rules only prioritise particular pollutant or dangerous material kinds.
- vi. The lack of public knowledge and political will is one of the causes of the environment's depletion.
- vii. Pollution Control Boards are underfunded, and its facilities and labs are subpar.

5. Way ahead

Therefore, environmental legislation is insufficient. To successfully and efficiently implement these regulations, everyone must have a good attitude. This requires public awareness since the success of any legislation depends on the participation of the general population. It is past time for the Indian Constitution's three organisations to begin improving the laws, and they should develop policies that facilitate greater law enforcement.

6. Conclusion

Although India has strong environmental protection laws, we have not been very effective in upholding them, mostly because there isn't much political will and little public awareness. Another explanation might be that most of our environmental regulations are human-centric, meaning they are primarily intended to protect and benefit people rather than the environment in which they live.

This may be due to the fact that practically all environmental rules take into account how superior

people are to nature and the ecosystem. The ecosystem, on the other hand, is an intricate system that is tightly connected and self-regulating. While our laws are primarily focused on promoting the economic wellbeing of people, it functions best when left alone by human intrusions.

It won't help to be ignorant of environmental concerns. Our first objective should be to raise public awareness of the problem of environmental contamination and to take it seriously. An RO water purifier or air purifier in our homes is not a symbol of human progress; rather, it is evidence that we are in danger of destroying our planet and, along the way, our cherished house.

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ⁱ Air quality and climate policy integration in India, <https://www.iea.org/reports/air-quality-and-climate-policy-integration-in-india>.

ⁱⁱ <https://www.netsolwater.com/are-indian-standards-enough-to-combat-the-water-pollution.php?blog=714>

ⁱⁱⁱ <https://www.hindustantimes.com/cities/chandigarh-news/water-in-29-wells-in-punjab-has-uranium-concentration-101676181913587.html>.

^{iv} <https://www.netsolwater.com/are-indian-standards-enough-to-combat-the-water-pollution.php?blog=714>

^v Jacob Koshy, *India faces worst water crisis: Niti Aayog*, The Hindu (2018), available at <<https://www.thehindu.com/sci-tech/energy-and-environment/india-faces-worst-water-crisis-niti-aayog/article24165708.ece>>.

^{vi} Comptroller and Auditor General of India, *Report no. 21 of 2011*, available at <<https://cag.gov.in/content/report-no-21-2011-%E2%80%93-performance-audit-water-pollution-india-union-government-ministry>>

^{vii} Indian Council for Enviro-Legal Action v. Union of India and Others (Bicchri case) (1996) 3 SCC 212; and Sterlite Industries (India) Ltd v. Union of India and Others (2013) 4 SCC 575.