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"CLEARING THE AIR: CONSTITUTIONAL AVENUES FOR CITIZEN-LED ACTION AGAINST AIR POLLUTION IN INDIA"

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INTRODUCTION

In the world that we live almost 99% of the air that we breathe in is polluted and dangerous for human intake¹. The petrifying and the most dangerous aspect regarding air pollution is the fact that how it can be seen as a rising risk factor to the human health along with the already adverse effects it has on our environment, one also need not mention the alarming rate at which air pollution is growing nowadays. India is one such country which has witnessed a meticulous rise in its pollution rates, being ranked eighth for being one of the most polluted countries in the world according to recently released fifth annual World Air Quality Report 2022,² pollution rates in India is seen to have a huge negative impact on the country's public health and has also been a huge factor due to which people in India are falling ill. Recently, the World Health Organisation has brought it into notice that how almost 1/3rd of the deaths that is witnessed in India is caused due to air pollution making the eradication of the same in the country a matter of grave concern as well. It is the sole duty and responsibility of the citizens to ensure protection of the environment that they live in and considering the present situation it should be of priority of the citizens to do so.

Lately the government is also seen to be taking initiatives in order to provide a healthy environment for its citizens and moreover the government from the very beginning itself has provided provisions through the Fundamental Rights, State Duties and Citizens' Duties within the constitution where citizens can claim the right to have a sustainable environment as their primary right too. The constant efforts of the government to eradicate the severe problem of air

¹ Environment UN, "International Day of Clean Air for Blue Skies" (International Day of Clean Air for blue skies2022) < <https://www.cleanairblueskies.org/>> accessed May 4, 2023

² Gopal DKM, "Why Air Pollution in India Is a Public Health Crisis and Demands Urgent Action: Opinion" (India TodayMarch 16, 2023) < <https://www.indiatoday.in/opinion-columns/story/why-air-pollution-in-india-is-a-public-health-crisis-and-demands-urgent-action-opinion-2347548-2023-03-16?onetap=true>> accessed May 4, 2023

pollution has lately proved to insufficient and the noticeable changes arising out of the above government intervention is meagre. This paper majorly focuses on analysing the dangerous effects of air pollution on human health along whilst discussing the various methods a citizen can adopt to eradicate the same with the help of the rights provided to him/her through the constitution as well.

AIR POLLUTION AND ITS DANGEOROUS EFFECTS

Being one of the most polluted countries in the world the concept of air pollution is not something new for the citizens of India. From a recently published study, it is seen that out of the total deaths that occur in the country almost 30.7% of the deaths are the ones that arise out of the excessive pollutants present in the air making the air not fit for breathing, this means that almost 2.5 million citizens die because of the same³. Other than the usual factors causing air pollution like burning of fossil fuels and the side effects of construction, air pollution in India is also caused majorly by the burning of domestic stoves and the using of homemade domestic stoves is a common practice in majority of rural India as the people belonging to such places do not have enough resources so that they can access facilities like electricity and other clean fuels. The non progressive nature of public transport services in India is also to be blamed for the alarming rise in pollution in India, specifically the “auto-rickshaws” and even some taxi services run their vehicles on alternative sources of fuels that replace the original ingredient of fuels (which is fossils) with other cheaper alternates ultimately making the outcome of using the same ten times more harmful. Pollution and poor quality in the country is closely associated with the poor air quality that can be seen in the capital city Delhi also.

EFFECTS OF AIR POLLUTION OH HUMAN HEALTH

The World Health Organisation (WHO) recommends that every citizen being exposed to more than PM 0.5 pollutant levels will lead to chronic respiratory diseases eventually and may even result in death⁴. In India air pollution has become so adverse that the pollutant level in the air is usually five times more than the level prescribed by WHO, and one can only imagine what chronic health related after-effects such a situation may hold. Some problems arising out of the

³ Sreedhar N, “One Third of Deaths in India Every Year Are Due to Air Pollution” (MintloungeFebruary 9, 2021) < <https://lifestyle.livemint.com/smart-living/environment/onethird-of-indians-die-due-to-air-pollution-every-year-111612855290031.html#:~:text=At%20least%2030.7%25%20of%20deaths,year%20after%20breathing%20toxic%20air.>> accessed May 5, 2023

⁴ WHO (World Health Organisation)

same are mentioned below.

- With respect to both instant and longstanding exposure to air pollution arising in immediate surrounding of the citizens, members of all ages are easy victims to health conditions like reduced lung function, chronic infection in respiratory system and sometimes may even be a victim to highly aggravated variant of asthma.
- Recently doctors and researchers have brought it into public notice that air pollution that individuals experience in their immediate surroundings has begun to have a wider scope of health-related risk by affecting factors like nerve-related development and even genetic disorders like diabetes as well.
- In India indoor air pollution arising out of indoor stoves etc., is more problematic as it becomes the lead cause for cancers, lung problems and mostly even death.

EFFECTS OF AIR POLLUTION ON THE STATE EXCHEQUER

Air pollution adding onto its environmental and public health effects has also had a rather “costly” after-effect on the state exchequer. Recently “clean air fund” an environmental based philanthropic organisation along with Dalberg advisors released a statement stating that “Air pollution costs Indian business about USD 95 billion (7 lakh crores) every fiscal year, around 3% of India’s total GDP, a major research report shows. The cost is equal to 50% of all tax collected annually, or 150% of India’s healthcare budget”⁵. The main economic impact air pollution has in India is as follows.

- Due to the impending health risks that are caused due air pollution people tend fall sick, due to which there is a gradual decrease in expected workforce, ultimately impacting the productivity of a nation.
- Air pollution is a phenomenon which highly harmful for crops and crop growth, India being a country where agriculture is the most commonly practiced occupation faces difficulties in crop growth, crop yielding and crop quality because of pollution. This ultimately impacts the GDP and acts a huge burden on the state exchequer.
- Another economic impact air pollution has on the state economy is by causing an increase in the number of premature deaths, because of which there is a reduction in the number of citizens who potentially may have been the part of the working manpower

⁵ Dalberg Association CAF& “Air Pollution in India and the Impact on Business” (Clean Air Fund June 29, 2022) < <https://www.cleanairfund.org/resource/air-pollution-in-india-and-the-impact-on-business/#:~:text=Air%20pollution%20costs%20Indian%20business,150%25%20of%20India's%20healthcare%20budget.>> accessed May 5, 2023

and workforce which could have reduced the burden on the state's role in improving the economy.

ROLE OF CITIZEN IN LIMITING & ERADICATING AIR POLLUTION WITHIN THE COUNTRY

Considering the alarming rate and the harmful economic and health effects that are brought upon by air pollution in the country, it is high time for citizens within the country to take up and adopt counter-measures in order to limit and eradicate air pollution. Governmental and non-governmental organisations across the world have laid down various methods in order to reduce and if followed with strict adherence ultimately eradicate air pollution as well. Some of the various initiative a citizen can take up and adhere in-order to limit and eradicate air pollution.

- In India 90% of the pollution caused is majorly because of the burning of fossil fuels, and these fossil fuels are primarily used up for the purpose of transportation and secondarily for the energy production. Thus, by using alternate sources of energy for the purpose of transportation like electricity can decrease the residual carbon emissions ultimately reducing air pollution within the country. Shifting from burning of fossil fuels to using of easily available and more importantly eco-friendly alternatives like wind power, solar power, and even hydro-electric power to produce energy can be an ideal way to limit if not eradicate air pollution.
- The government for the development and well-being of its citizens have launched a number of initiatives that aim to reduce pollution within the country, one such significant and essential initiative by the government was the National Clean Air Program (NCAP) launched in 2019 which was launched specifically to reduce air pollution by at least 20-30 percentage and increase the ratio of clean air intake. Proper adherence and co-ordination of such initiatives and programmes by the government by its citizens is a humongous step in reducing air pollution.
- Finally, raising awareness regarding the negative effect of air pollution so that people start to realise the impending danger than comes along with the excessive pollution. It is also essential to educate people living in the rural areas of the country as most of them indulge in polluting practices without even being aware of what they are doing or getting into for e.g., Above mentioned usage of harmful alternates of fossil fuels and usage of domestic stoves.

LIMITATION AND ERRADICATION OF AIR POLLUTION BY CITIZENS WITH THE HELP OF THE CONSTITUTIONAL RIGHTS AND DUTIES.

The constitution of India ensures that all citizens belonging to the country have a “decent standard of living” and the definition and the features that make up this so called “decent standard of living” has evolved and grown through the course of time as well. The constant growth and the inclusive nature of the Indian constitution has also led to accommodation of environment-specific provisions into the constitution. The government of India recognises the need for a clean, safe, and sustainable environment so that its citizens can be provided with the above mentioned “decent standard of living.” The government ensures the same through **Article 51-A (g)** of the constitution states that “It shall be duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures” The various ways one can establish their claim over the need to breath clean air and ultimately reduce air pollution through the application of the principles in the constitution are mentioned below: -

- **Fundamental Rights**

In order to be more specific with the topic in hand **Article 21** of the Indian constitution after going through a number of judicial decrees has incorporated that it is the fundamental right of every citizen to enjoy the privilege of getting access to pollution free air and water. By claiming ones right under article 21 an individual of India can claim his/her rightful access for clean, sustainable air. The same could be observed in **Vellore Citizens' Welfare Forum vs Union of India**⁶ where the plaintiff filed a breach of its fundamental right under article 21 against the defendant for pollution caused to the ambient air and water by the industries in the area. In the specific case the supreme court recognised the validity of the plaintiff's argument and ordered immediate suspension of several polluting industries withing the region and further laid down **guidelines** for preventing the same as well.

- **State Duties**

The constitution of India is also forged in a way that it not only imposes duties over the citizen to protect and sustainably use the environment but also imposes on the state to do and address issues and concerns regarding the same as well. It can be viewed through **Article 48A** of the constitution imposes duty on the state in-order to safeguard and

⁶ Vellore Citizens' Welfare Forum v Union of India [1996] 5 SCC 647

protect the forests and wildlife within the country. Imposition of such a duty on the state ultimately gives rise to more clean air as forests are one of the biggest sources of the same as well. One such landmark case where the role of state duty can be highlighted is through the case of **M.C. Mehta vs Union of India**⁷ where the deciding court upheld the decision that protection and safeguarding of the environment should be part of the primary duties of the state and also gave the state the ultimate power and authority so that proper strict measures could be taken in order prevent and control air pollution. Under directions of the court with respect to this specific case the state was seen to promote use of natural clean fuels like CNG (compressed natural gas) and even suspend and shut down industries with high pollution rates.

- **CITIZENS DUTIES**

According to the constitution **Article 51A(g)** imposes a strict duty upon every citizen of India to “protect and improve the natural environment including forests, lakes, rivers, and wildlife and to have compassion for living creatures”⁸. It is very much implied in this article that air can be termed as part of the natural environment and it is the duty of every individual to safeguard and protect the same, ultimately leading to rise in the clean air ratio and less pollution rates. The application of the same above-mentioned case of M.C. Mehta vs Union of India can be applied here as the court mentioned the importance of the “duty of co-operation” of citizens with the state in safeguarding the environment (includes clean air).

Therefore, it is safe to say that with proper use of one’s fundamental rights given through the constitution a major change can be bought in limiting and even eradicating air pollution in the country.

CONCLUSION

In conclusion, the above-mentioned analysis shows us the negative health and economic problems arising out of air pollution and how the quick eradication of the same is required for sustainable living in India. The paper also mentions how citizens can eradicate and limit air pollution by adopting various practices and also by claiming the right to unpolluted air through the constitution itself. Therefore, the only ones who are getting benefited out of clean air and pollution free air are the citizens themselves, making the purpose more required.

⁷ M.C. Mehta v Union of India, (1988) 1 SCC 471

⁸ Constitution of India, art 51A(g)