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AIR POLLUTION

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ABSTRACT

This article attempted to provide a brief view of Air pollution, It explained the beginnings of environmental law, the evolution of environmental impact assessment law and pollution control law, environmental cleanup and species protection laws, and protection of special lands. The article also offered some issues for consideration in an Air pollution in urban areas arises from multiple sources, which may vary with location and developmental activities. The review also presents legislative controls with judicial response to certain landmark judgments related to air pollution. The down sides related to enforcement mechanism for the effective implementation of environmental laws for air pollution control have been highlighted.

INTRODUCTION:

Republic of India is one of the largest democratic nations in the world being the first country to insert an amendment into its constitution allowing the state to protect and improve the environment for safeguarding the public health, forests and wild life. There were some Articles (39, 42, 47, 48 and 49) indirectly dealing with the subject of environmental pollution and protection in the former constitutional law of India¹.

Nowadays through judicial interpretations, the right to clean air has been identified as element of right to life under Article 21 of the Constitution. The language of the Directive Principles of State Policy (Article 47) requires not only a protectionist stance by the state but also compels the State to look for the improvement of the polluted environment. Policy statement for the amendment of pollution (1992) declares the objective of the government to integrate environmental considerations into decision makings at all levels.

Basic principles of environmental laws and treaties:

1. The polluter pays principle
2. Principle of non-discrimination
3. Precautionary principle
4. Principle-common but differentiated responsibility
5. Principle of intergenerational equity².

1. <http://lawmin.nic.in/olwing/coi/coi-english/coiindexenglish.htm>.

² V. Kulkarni, T.V. Ramchandra, Book of Environmental Management (TERI Press, New Delhi, 2009)

HISTORY OF LEGISLATION IN INDIA

Kautilya, the prime minister of Magadh, during the regime of Chandra Gupta Maurya, 300 B.C. in his 'Arthshastra' revealed the question of environment protection. Mauryan King Ashoka, Emperor Shivaji depicted compassion for environment³.

Laws prior to the independence of India:

1. The Oriental Gas Company Act, 1857
2. Indian Penal Code, 1860
3. Indian Explosive Act, 1884
4. The Bengal Smoke Nuisance Act, 1905
5. The Bombay Smoke Nuisance Act, 1905
6. The Indian Boilers Act, 1923
7. Indian Petroleum Act, 1934
8. The Motor Vehicles Act, 1939⁴.

POLLUTANTS:

Pollutants are the materials or factors, which cause adverse effects on the natural quality of any component of the environment. For example, some from industries and automobiles, chemicals from factories, radioactive substances from nuclear plants, sewage of houses and discarded household articles are the common pollutants.

CAUSES OF POLLUTION:

1. Uncontrolled growth in human population.
2. Rapid industrialization.
3. Urbanization.
4. Uncontrolled exploitation of nature.
5. Forest fires, radioactivity, volcanic eruptions, strong winds etc.,

AIR POLLUTION:

Air pollution is aggravated because of four developments: increasing traffic, growing cities, rapid economic development, and industrialization. The presence in the atmosphere of one or more contaminants in such quality and for such duration as it is injurious, or tends to be injurious to human health or welfare, animal or plant life. It is the contamination of air by the discharge of harmful substances. Air pollution can cause health problems, damage the environment, property and climate change.

³ . The Energy and Resources Institute, Environmental justice: scope and access workshop on sustainable development for the subordinate judiciary (19th–21st Aug 2006). (The Energy and Resources Institute, New Delhi, 2006)

⁴ . <http://lawmin.nic.in/>.

AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981

The objective of the Air Act 1981 is to preserve the quality of air and control of air pollution. There are two boards namely Central Board and State Boards. Some of their important functions are to improve the quality of air and to prevent, control or abate air pollution in the country, to advise the Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution, to plan and executed a program for the prevention, control or abatement of air pollution, to collect, compile and publish technical and statistical data relating to air pollution and the measures devised for its effective prevention, control or abatement and prepare manuals, codes or guides relating to prevention, control or abatement of air pollution, to lay down standards for the quality of air, to inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give, by order, such directions to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution, to inspect air pollution control areas at such intervals as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement of air pollution in such areas⁵. The Central Board and State Board work in collaboration of each other. The Central works throughout the nation whereas State Boards work within its state. Likewise, chapter four states about the prevention and control of air pollution. State Government after consultation with State Board can declare any area or areas within the State as air pollution control area or areas for the purposes of this Act, can alter any air pollution control area whether by way of extension or reduction, can declare a new air pollution control area in which may be merged one or more existing air pollution control areas or any part or parts thereof.

ENVIRONMENT PROTECTION ACT, 1986

The Environment Protection Act came in 1986. Prior to this act, there was Department of Environment which was established in 1980 in India. In 1985, it converted into Ministry of Environment and Forests. Similarly, The Air (Prevention and Control of Pollution) Act came before this act in 1981. The objective of this act is to take appropriate steps for the protection and improvement of environment and prevention of hazards to human beings, other living creatures, plants and properties. This act has defined “environment pollution” as the presence of any environmental pollutant in the environment and “environment pollutant” as any solid, liquid or gaseous substance present in such concentration as may be, or tend to be injurious to environment. Similarly, chapter two deals with general power of Central government. Central Government shall have power to take all such steps it thinks necessary for the preserving and improving the quality of the environment and preventing and controlling environmental pollution, to prohibit and restrict on the handling of hazardous substance in different areas, to prohibit and restrict on the location of industries and the carrying on of the process and operations in different areas, to carry out and sponsor investigations and research relating to problems of environmental pollution, to safeguard for the prevention of accidents which may cause environmental pollution and for providing for re-medical measures for such accidents etc.

Besides, third chapter talks about the ways of prevention, control and abatement environmental control. It prohibits any person to carry on any industry operation or process shall discharge or emit or permit to be discharged or emitted any environmental pollutant in excess of such standards as may be prescribed and to handle or cause to be handled any hazardous substance expert in accordance with such procedure and after complying with such safeguards may be prescribed. Whoever fails to comply or contravenes will be punished with five years imprisonment or with fine which may extend to one lakh rupees, or both, and in the case of failure or if contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention. Finally, if it continues more than a year from the date of conviction shall be punishable with imprisonment for the term which may extend to seven years.

⁵ <https://blog.ipleaders.in/clean-air-related-laws-in-india/>

Again, if a company commits any offense under this act, every person such as director, manager secretary or another officer of the company who at the time offence was committed, was directly in charge of and was responsible to the company for the conduct of the business of the company, as well as company shall be deemed to guilty of the offence and shall be liable to be proceeded against and punished accordingly.

LANDMARK CASES:

Bhopal Disaster Case

On December 3, 1984, the worst industrial accident in history occurred. Around 40 tons of Methyl Isocyanate (MIC) gas mixed with other poisonous gasses from a chemical plant which is owned and operated by Union Carbide (India) Limited. At least 3,800 people were killed and several were injured in this incident. This incident caused victims throats and eyes to burn, induced nausea because the gases remained low to the ground. Those who were exposed to such toxic gas gave birth to physically and mentally disabled baby even after 30 years⁶.

The Union Carbide Corporation paid a sum of U.S. Dollars 470 millions for full settlement of all claims, rights and liabilities related to and arising out of the Bhopal Gas disaster to the Union of India. The principle of absolute liability was used by the Supreme Court made the Union Carbide Corporation pay compensation. It is relatively small in comparison to the offence which has long term effect in the human existence of that place. Even after this disaster, there has been rapid industrialization in India. While some affirmative changes in policy of government and conducts of a few industries have taken place, there still remain major threats to the environment from rapid and poorly regulated industrial growth. Due to widespread environmental degradation, adverse effect in human health consequences continues to happen all over India.

MC Mehta (Taj Trapezium Matter) V. Union of India

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 Kuldeep 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 Trapezium⁷.

⁶ <https://blog.ipleaders.in/clean-air-related-laws-in-india/>

⁷ <https://blog.ipleaders.in/clean-air-related-laws-in-india/>

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

National Air Quality Index (AQI) :**AQI to act as ‘One Number- One Colour-One Description’ to judge the Air Quality for Common Man:**

The Minister for Environment, Forests & Climate Change Shri Prakash Javadekar today launched ‘The National Air Quality Index’ (AQI) in New Delhi. Speaking on the occasion, Shri Javadekar outlined the AQI, as ‘One Number- One Colour-One Description’ for the common man to judge the air quality within his vicinity. The formulation of the index was a continuation of the initiatives under Swachh Bharat Mission envisioned by the Hon’ble Prime Minister Shri Narendra Modi⁸.

Air pollution has been a matter of environmental and health concerns, particularly in urban areas. Central Pollution Control Board along with State Pollution Control Boards has been operating National Air Monitoring Program (NAMP) covering 240 cities of the country. In addition, continuous monitoring systems that provide data on near real-time basis are also installed in a few cities.

There are six AQI categories, namely Good, Satisfactory, Moderately polluted, Poor, Very Poor, and Severe. The proposed AQI will consider eight pollutants (PM₁₀, PM_{2.5}, NO₂, SO₂, CO, O₃, NH₃, and Pb) for which short-term (up to 24-hourly averaging period) National Ambient Air Quality Standards are prescribed⁹.

⁸ <https://pib.gov.in/newsite/PrintRelease.aspx?relid=110654>

⁹ <https://pib.gov.in/newsite/PrintRelease.aspx?relid=110654>

AQI	Associated Health Impacts
Good (0–50)	Minimal Impact
Satisfactory (51–100)	May cause minor breathing discomfort to sensitive people
Moderately polluted (101–200)	May cause breathing discomfort to people with lung disease such as asthma, and discomfort to people with heart disease, children and older adults.
Poor (201–300)	May cause breathing discomfort to people on prolonged exposure, and discomfort to people with heart disease
Very Poor (301–400)	May cause respiratory illness to the people on prolonged exposure. Effect may be more pronounced in people with lung and heart diseases
Severe (401-500)	May cause respiratory impact even on healthy people, and serious health impacts on people with lung/heart disease. The health impacts may be experienced even during light physical activity.

CONCLUSION:

The COVID-19 related lockdown has substantially improved the air quality of taking it from satisfactory level to good, a senior state pollution control board official. During the course of the lockdown, we reached good position from satisfactory. It is between zero to 50 AQI (Air Quality Index) now. We have good quality air, the indicator for knowing the air quality in "If the AQI is zero to 50 then it is good. If it is 50 to 100 then it is satisfactory. 101 to 150 is moderate and if it is 151 to 200, then it is poor, there has been a 60 to 65 per cent reduction in pollution during the lockdown. The city railway station and industrial area, which used to be among the areas with highest AQI, has seen pollution levels come down significantly, Another major contributor of pollution was construction activities, which too had ground to a halt due to the lockdown, resulting in zero dust emission. The improved air quality would boost the immune system of the people. "It will improve the immune system of people, including those who have breathing problems like asthma", we can still reduce the pollution load even after the lockdown is over.