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## ROLE OF PARLIAMENT TO STOP WATER POLLUTION AND ITS JUDICIAL ASPECTS IN INDIA

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**Abstract:**-Every year, more people die from the consequences of unsafe water than from all forms of violence, including war. The acts that directly concern water pollution in India are the Water Act (1974), the Water Cess Act (1977 and 1988), and the Environment (Protection) Act or EPA (1986). While the first two are foundational legislations in the context of water pollution in the country, EPA is designed to fill the gaps still remaining in the legal framework for the control of industrial pollution. CPCB is to coordinate the activities of the state boards.

**Keywords:**Central Pollution Control Board (CPCB), Environment (Protection) Act or EPA (1986), Water Act (1974), Water Cess Act (1977 and 1988), Water Pollution,

### INTRODUCTION

Among life sustaining elements, water has a unique place as the total volume of water on earth is about 1400 million km<sup>3</sup> of which only 2.5 percent or about 35 million km<sup>3</sup> is freshwater. The Principal sources of water are lakes, river and relatively shallow ground water basins. The usable portion of these sources is only about 2, 00,000 km<sup>3</sup> of water which is less than 1 percent of all fresh water. As water is good solvent. Therefore, it is rarely found, except in chemical laboratory, free from 'impurities'. Even rain water has dissolved some gases in it. The practical and rational definition of water pollution can thus be "*The presence of deleterious matter in such quantities to make the water unsuitable for its designated use.*" In Scientific sense, "water pollution is a distortion of the aquatic ecosystem. Hence, water pollution is such a change which 'adversely affect the aquatic ecosystem in terms of the living organism, Oxygen content, the presence of toxins and so on. The water (Prevention and control of pollution) act, 1974 makes a legal definition of water pollution as "*Such contamination of water or such alteration of the physical, chemical, or biological properties of water or such discharge of any sewage or trade effluent or any other liquid, gaseous or solid substance into water as may, or is likely to create a nuisance or render such water harmful or injurious to public health or safety or to domestic, commercial, industrial, agricultural or other legitimate uses or to the life and health of animals or aquatic organism.*"

In fact, there could be a problem of water pollution only if the pollution loads exceed the natural regenerative capacity of a water resource. The control of water pollution is therefore, to reduce the pollution loads from anthropogenic activities to the natural regenerative capacity of the resource. The benefits of the preservation of water quality are manifold. Not only can abatement of water pollution provide marketable benefits, such as reduced water borne diseases, savings in the cost of supplying water for household, industrial and agricultural uses, control of land degradation and development of fisheries, it can also generate non-marketable benefits like improved environmental amenities, aquatic life and biodiversity. McKenzie and Ray (2004) also observe similar effects of water pollution; however, the magnitude of the effect was modest. Murty and Kumar (2004) estimated the cost of industrial water pollution abatement and found that these costs account for about 2.5 per cent of industrial GDP in India. Parikh (2004) shows that the cost of avoidance is much lower than damage costs.

The problem is compounded by the presence of a large number of small-scale industries. Thus, India encounters water quality problems both on account of water pollution and overexploitation of groundwater. This shows that degraded water quality can contribute to water scarcity as it limits its availability for both human use and for the ecosystem.

In 1995, the Central Pollution Control Board (CPCB) identified severely polluted stretches on 18 major

rivers in India. CPCB particularly carried water quality monitoring with respect to the indicator of oxygen consuming substances (biochemical oxygen demand, BOD) and the indicator of pathogenic bacteria (total coli form and faecal coliform) which showed that there is gradual degradation in water quality (CPCB 2009). During 1995–2009, the number of observed sample with BOD values less than 3 mg/l were between 57–69 per cent; in 2007 the observed samples were 69 per cent. Similarly, during this period of 15 years between 17–28 per cent of the samples observed BOD value between 3-6 mg/l and the maximum number of samples in this category were observed in 1998.

Thus, Indian parliament passed the 42nd amendment to its constitution safeguarding the environment and became the first country in the world to do so. According to the Environment Protection Act of 1986, Environment is that which includes the “inter-relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property” *The 42nd amendment was to “endeavor to protect and improve the environment and to safeguard the forests and wild life of the country” It imposes a duty on every Indian citizen “to protect and improve the natural environment including forests, lakes, rivers, and wild life and to have compassion for living creatures”*

#### LEGISLATION FOR WATER POLLUTION IN INDIA

The Water (Prevention and Control of Pollution) Act was enacted in 1974 to provide for the prevention and control of water pollution and for the maintaining or restoring of wholesomeness of water in the country. The Act was amended in 1988. The Water (Prevention and Control of Pollution) Cess Act was enacted in 1977, to provide for the levy and collection of a cess on water consumed by persons operating and carrying on certain types of industrial activities. This cess is collected with a view to augment the resources of the Central Board and the State Boards for the prevention and control of water pollution constituted under the Water Act, 1974.

##### **The Water (Prevention and Control of Pollution) Act, 1974**

The purpose of this act is “to provide for the prevention and control of water pollution and the maintenance or restoring wholesomeness of water for the establishment, with a view to carrying out the purpose of aforesaid of Boards for the prevention and control of water pollution, for conferring on and assigning to such Boards powers and functions relating thereto and for matters connected therewith” This is the Act that established the Central and State Boards and also the authority and power to constitute as many committees as it feels essential to carry out specific functions for it.

The Act specifically prohibits “any poisonous, noxious or polluting matter” into any stream or well. Consent from the State Board is required for any type of new discharge into any new stream or well. This also includes consent for “temperature” discharges as done by cooling tower users. Under these rules, “effluent standards to be complied with by persons while causing discharge of sewage or sullage or both” have been specified. Standards for small scale industries have been specified separately. Penalties for non-compliance with the permit or polluting are also given. These penalties can also be imposed for “obstructing any person acting under the orders or direction of the Board” or for “damages to any work or property of the Board.”

##### **The Water (Prevention and Control of Pollution) Cess Act, 1977**

The act related to water cess is more of a revenue-generating legislation than a measure to restrict the consumption of water by industrial units. Pollution control boards at the central and state levels are empowered to prevent, control and abate water pollution and to advise governments on matters pertaining to such pollution. This law provides for the levy and collection of a Cess on water consumed by persons carrying on certain industries and by local authorities, with a view to augment the resources of the Central and State Boards for the prevention and control of water pollution constituted under the Water (Prevention and Control of Pollution) Act, 1974. It extends to the whole of India except the State of Jammu and Kashmir. Collection of Cess was based on the quantity of water consumed. The State government had the authority to collect the Cess from the industry.

##### **The Rivers Board Act, 1956**

This is an Act to provide for the establishment of River for the regulation and development of inter-State rivers and river valleys. The Central Government may, on a request received in this behalf from a State Government or otherwise, by notification in the Official Gazette, establish a River Board for advising the Governments interested in relation to such matters concerning the regulation or development of an inter-State river or river valley or any specified part thereof and for performing such other functions as may be specified in the notification, and different Boards may be established for different inter-State rivers or river valleys.

### **The Merchant Shipping Act, 1958**

Act has provisions to accelerate the pace of development of shipping in the post independence period. This Act is divided into 24 parts, each part dealing with specific aspects of merchant shipping like registration of ships, sailing vessels and fishing vessels, National Shipping Board, manning of ships, engagement, discharge and repatriation of seamen and apprentices, safety of passenger and cargo ships, control of Indian ships and ships engaged in the coasting trade, collisions, prevention and control of pollution of the sea by oil from ships, limitation of shipowners' liability, civil liability for oil pollution damage etc.

### **The coastal regulation zone notification, 2011**

The new Coastal Regulation Zone (CRZ) rules of the Ministry of Environment and Forests that was notified on January 7, 2011, frees up more space for development which has been severely curtailed under the CRZ rules formulated 20 years ago, by allowing development beyond 100 metres as against 200 metres in the earlier rules. But they give local coastal communities a say in how development should take place. Andaman and Nicobar Islands and Lakshadweep have been taken out of the purview of CRZ notification. A separate Island Protection Notification is issued for these islands.

### **Other Regulatory Requirements**

As per Ministry of Environment and Forest notification dated March 13, 1992, environmental audit is required for every industry, operation or process requiring consent to operate under Section 25 of the Water (Prevention and Control of Pollution) Act, 1974 (6 of 1974) or under section 21 of the Air (Prevention and Control of Pollution) Act, 1981 (14 of 1981), or both, or authorization under the Hazardous Wastes (Management and Handling) Rules, 1989, issued under the Environment (Protection) Act, 1986 (29 of 1986). The notification requires that an Environmental Statement for the financial year ending on the 31st March be submitted to the concerned State Pollution Control Board on or before the 30th September of the same year. Other regulations, and government policies include

The Environment (Prevention) Act, 1986 and its amendments

- (a) National Environmental Tribunal Act of 1995
- (b) National Environmental Appellate Authority Act of 1997

Hazardous Waste (Management and Handling) Rules, 1989

The Public Liability Insurance Act, 1991

The Common Effluent Treatment Plants Schemes

The National Drinking Water Mission

Community action and informal regulation

The National Forest Policy

The National Wild Life Action Plan

Forest (Conservation) Act

The Policy Statement for Abatement of Pollution

The National Conservation Strategy and Policy Statement on Environment and Development Regulatory agencies are now enforcing the regulations more and more. They have taken many industries to the courts enabling many landmark decisions to come out in support of enforcement of these regulations. In 1987, Mr. Justice P.N. Bhagwati enforced the "Polluter pays" principle. In April 1996, the Supreme Court ordered the closure of 513 polluting industries. A task force was also constituted by the Ministry of Environment and Forests (MoEF) in 1995 to evaluate the scope for market based instruments (MBIs) for industrial pollution abatement (Government of India 1997).

### **Role of Central Government For The Protection of Holy Ganga**

Narendra Modi has formed special ministry for the cleanliness of Ganga River. Senior BJP leader Uma Bharti has been handed over the responsibility to clean Ganga. Uma Bharti has been fighting for the cleanliness of the holy Indian River for several years. Few days back, four cabinet ministers of the Modi government met and discussed on this issue. They decided to increase cooperation among themselves and prepared a blueprint to clean Ganga River.

Narendra Modi's government has already allotted 18 Crore Rupees for the cleaning of Ganga River. The Indian government is also preparing to bring strict laws to control the pollution of Ganga. Some of the strict laws that

Indian government might bring are as follows.

- (i) New law will prevent people from spitting in the Ganga River.
- (ii) People will not be allowed to throw garbage in the holy river.
- (iii) People not obeying above mentioned laws will be fined 10,000 Rupees. Those who will not deposit the fine will be sent into jail for 10 days.

Above mentioned laws are really very strict laws but Indian government is still thinking on bringing these laws. Today many small and big factories are pouring their waste product in the Ganga without proper treatment. Indian government must look to stop these evil practices because these are the major contributors in the pollution of the river. Let us see whether Modi government succeeds in cleaning Ganga or not.

### **CONCLUSION**

The major cause of environmental problems in recent years in India is the rapid pace of industrialization and the greater emphasis on agricultural growth. Financial and technological constraints have led to inefficient conversion processes which further lead to generation of larger quantities of waste material and resulting pollution. Water pollution is a serious problem in India as almost 70 per cent of its surface water resources and a growing percentage of its groundwater reserves are contaminated by biological, toxic, organic, and inorganic pollutants. In many cases, these sources have been rendered unsafe for human consumption as well as for other activities, such as irrigation and industrial needs. India's approach for the safeguard of the environment was summed up by Mahatma Gandhi when he said, "*Earth has enough to cater to our needs, but it surely will not put up with our greed.*"

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