

# Different aspects of Environmental laws

Mukund Sarada, Bhagyashree Deshpande, Jyoti Dharm, Vidya Dhere

**Abstract:** Environmental Laws in India have propagated from 'Right to life' guaranteed under Article 21 of the constitution. The rationale that Supreme Court follows to interpret Article 21 to encompass environment within its spectrum is that every person has a right to "live with dignity" in a safe and disease free environment. Moreover, maintenance of health, preservation of sanitation and environment are also considered to be under the scope of Article 21. However, despite of various judicial pronouncements regarding the preservation of environment, it is often observed that environment laws are ignored extensively. Also, lack of public co-operation persists, which adds even more to the environmental degradation. This has instigated the governmental authorities to come up with various programs such as, 'Swachh Bharat' mission, compulsory teaching of health, hygiene and cleanliness etc, to help inculcate within the people the importance of environment protection. These programs and initiatives bring forth need for environmental protection and also, indicate towards the need for financial assistance from the Central and State government. However, it is pertinent to note that 'Pollution Control Boards' is criticized for its failure to protect environment, which is furthering damage to environment. The purport of this paper is to bring to light the need for environment protection as it protected under Article 21 of the Constitution. This paper also puts forward various recommendations which will give laws such as Water (Prevention and Control of Pollution) Act, 1974 Air (Prevention and Control of Pollution) Act, 1981 and Environmental Protection Act, 1986 teeth and will make them effective.

**Index Terms:** Air Prevention and Control of Pollution, Environment, Environment laws, Water Prevention and Control of Pollution.

## I. INTRODUCTION

Statutory enactments such as Water (Prevention and Control of Pollution) Act, 1974 as amended from time to time, Air (Prevention and Control of Pollution) Act, 1981 and Environmental Protection Act, 1986 are the measures taken for protection and improvement of environment consistent with the constitutional obligation of the State under Art 21 of Constitution dealing with constitutionally guaranteed fundamental right relating to 'right to life'. Art 21 provides thus:-

"No person shall be deprived of his life or personal liberty except according to procedure established by law".

Art 21 is considered to be the "foundation head of our laws"[1] and as the 'heart of the Constitution'[2].

In the interpretation of Art 21 of the Constitution, the Supreme Court has laid down the following:-

- i. Right to life to mean a 'life of dignity' to be lived in a proper environment free from the dangers of diseases and infection;
- ii. Clean surroundings lead to a healthy body and healthy mind [3]. So goes the proverb 'A sound mind in a sound body';[4]
- iii. Maintenance of health, preservation of the sanitation and environment has been held to fall within the purview of Art 21 as it adversely affects the life of the citizen and it amounts to slow poisoning and reducing the life of the citizen because of the hazard created, if not checked[5];
- iv. The right of enjoyment of pollution free water in sufficient quantity and air for full enjoyment of life:[6]
- v. If anything endangers or impairs that quality of life in derogation of laws, a citizen has the right to have recourse to Art 32 for removing the pollution of water or air which may be detrimental to the quality of life:[7]
- vi. Municipal corporations are under a statutory duty to provide for scavenging and cleaning of cities:[8]
- vii. Any disturbance of the basic elements namely air, water and soil, which are necessary for life would be hazardous to 'life' within the meaning of Art 21:[9]
- viii. Large scale withdrawal of water from wells by electric pumps, resulting in upsetting fresh water equilibrium in the islands of Lakshadweep as violation of Art 21:[10]
- ix. Smoking in any form in public place is illegal, unconstitutional and violation of Art 21, which includes maintenance of health and environment:[11]

In view of the statutory enactments and judicial rulings, there is still a large scale ignorance of environmental laws and lack of public co-operation in the matter of environmental cleanliness and as a consequence there is always a threat to life.

Keeping in view the importance of environmental issues and to protect and preserve the right to life, there has been a lot of programmes initiated to bring people closer to the environmental protection awareness, so that the right of the people to life may be adequately protected with the help and initiatives coming from the governmental authorities.

## II. METHODOLOGY

A brief summary is given of different aspects of environmental laws programmes organized at various levels, thus:-

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\* Correspondence Author

**Prof. Dr. Mukund Sarada\***, Dean, Faculty of Law, Principal, New Law College, Bharati Vidyapeeth University, Pune (MH), India.

**Dr. Bhagyashree Deshpande**, Assistant Professor, Department of Biotechnology and Microbiology, Bhilai Mahila Mahavidyalaya, Bhilai (C.G.), India.

**Dr. Jyoti Dharm**, Assistant Professor, Bharati Vidyapeeth Deemed University, New Law College, Pune (Maharashtra), India.

**Dr. Vidya Dhere**, Bharati Vidyapeeth (Deemed To be University) New Law College, Pune (Maharashtra), India.

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1. In the syllabus of various school education programmes, invariably health, hygiene and cleanliness is taught compulsorily. The younger maids are taught about the need for cleanliness. With the recent initiative of the Central Government various programmes are initiated towards the maintenance and preservation of 'Swachha Bharath';
  2. The subject of environmental protection in India, environmental protection and disaster management and various other types of related subjects are introduced at the intermediate and collegiate levels of education.
  3. In legal courses such LLB and LLM, it figures as a special papers for study;
  4. The law students have to undertake special visits to courts, prisons and various other organisation such as Forensic Science Academy to know various aspects relating to study of crimes and penology;
- There is a need to introduce 'environmental awareness' programmers, wherever it does not exist on the analogy of 'legal aid campus' organised by the law colleges.

### III. FINDINGS

Seminars and public discussions are organised by academic institutions in collaboration with the authorities under the environmental protection law to discuss the problems relating to growing incidence of pollution activities and the need to tackle them with various means. Further there is also a growing need to involve the public in various activities relating to 'Swatchh Bharath' like keeping toilets clean and not to do any act which might cause pollution, posing a threat to the life of the people.

These seminars also deal with the application of latest technology to tackle environmental issues.

- The co-operation of industries located in various places to observe the standard of cleanliness and dealing with waste material disposal, is sought by the labour department initiatives of the Government and also with the Federation of Chamber of Commerce and Industries. These programmes spell out the current problems relating to pollution activities and the control mechanism to be applied at various stages to curb the menace of pollution.
- The need to effectively enforce the laws relating to environmental protection and strict observance of guidance laid down by the courts is also a matter of great concern. Programmes are organised frequently for the effective implementation of laws.
- These programmes periodically point out the need for new measures to tackle the problem of environmental laws issues pertaining to the effective enforcement.
- These programmes highlight the need for adequate financial resources to perform the various activities required to be undertaken by the Pollution Control Boards. Even the 'Swatchh Bharath' programmes need heavy financial commitment on the part of the Central and State Governments concerned.
- A special programme titled, 'Environmental Protection vis-a-vis Human Rights' is also organised by several public boides pointing out how the human rights are violated by environmental pollution of various types and the special measures required to protect environment so as to lead to greater protection of Human Rights, keeping in view that the 'right to life' is one of the basic human rights which has to be protected and preserved at all costs.

- The functioning of 'Pollution Control Boards' has come up for criticism in several parts of the Country. It has been alleged that failure on the part of the Pollution Control Board in dealing with 'pollution control areas' are causing considerable damage to pollution resulting to injury to human life, plant life as well as animal lives. Cases of Bhopal Gas tragedy is an illustration of such happening for not tackling the issue at the very initial stage.
- The need to reconstitute Pollution Control Board with greater number of experts on the subject of environment and make it function with greater independence and autonomy is the primary need of the hour.

Thus, the need for programmes like "Functioning of Pollution Control Boards: Need for reforms" is to be thought of as necessary imperative.

Despite the fact that some programmes are arranged on 'preventive measures for avoidance of pollution; there is a need to organise these programmes at rural areas, as cleanliness of villages have to be taken up on a war-footing. Unless villages are clean and develop, there can be no development of the State or the Country as a whole.

Further there is a need for permanent setting up of "Environmental Prevention Campus" on the analogy of primary Health Centres at village levels. After all, environmental issues are finally linked to health issues as most of the diseases are caused by pollution of environment, air or water.

As municipalities have a greater role to play in keeping the city clean, there is a need for frequent organisation of special programmes like "role of municipalities in relation to environment protection laws enforcement". The work done by the municipalities need periodic evaluation and the areas in which it needs special measures to perform duties more efficiently?

Any act or omission which results in pollution, the role of the police cannot be under-estimated. They have to tackle immediately problems such as taking action against those who violate environment protection laws.

The need to create a special force like 'Environment Protection Force' such as Railway Protection force is necessary to tackle the problem of violations on the part of people firmly. Besides the need to establish special courts like Environmental Protection courts is an indispensable requirement to try speedily all cases of violations of Environmental Protection laws. Environmental Protection has been a subject of 'Corporate Social responsibility' on the part of corporate under the Indian Companies Act, 2013. The need to have a special programmes such as 'Environmental Protection and corporate social responsibility' are much needed to evaluate the role of corporate in prevention of environmental pollution of various types and how best they can further tackle the issues relating to environment. As the Income-tax Act provides for exemption of amounts spent on 'Swatchh Bharath', there can no financial constraint on the part of corporate in spending money on 'cleanliness issues'.

### IV. RESULTS AND DISCUSSION

Data analysis shows that forty one cities exceed the ambient air quality standard.



In addition, these cities are also facing problem of water pollution due to discharges of untreated sewage. The CPCB estimated the sewage generation from these tier-II cities as 2,696.7 million litres per day (MLD), but their treatment capacity is not even 10% (only 233.7 MLD) of the total sewage generated, leaving a wide gap of 2,463 MLD. The best and worst ten are based on annual average of PM (particulate matter) and CBCB analysis are shown in table 1.1.

12. Sarda, M., Deshpande, B., Shringarpure, S., "Smart city – Use of technology and the needed labor reforms", IJITEE, 2018.

Rank	Worst 10		Best 10	
	City	PM 10	City	PM 10
1	Jharia	231	Pathanamthitta	25
2	Gajraula	177	Nongstoin	26
3	Talchar	169	Daman	28
4	Lote	163	Silvassa	30
5	Saraikele-Kharsawan	142	Tura	30
6	Tejpur	134	Curcholem	31
7	Gobindgarh	130	Dharamshala	31
8	Nalbari	128	Kohima	34
9	Golaghat	126	Karaikal	35
10	Ri-Bhoi	122	Dwaki	36

### V. CONCLUSION

Environmental Protection issues and the concept of sustainable development is a matter of immediate attention to tackle. All the interested parties whether government, private or corporate must sit together and chalk out the programmes that developmental works do not seriously violate the issues relating to environmental issues, as life is more important than development but development has to be achieved without impairing the right to life under Art 21. Special programmes like 'Environmental Protection vis-a-vis sustainable development' "should be organised frequently by all concerned, to reconcile the conflicting interests between environmental protection and sustainable development. For acts of violations of Environmental Protection laws causing death or injuries to any person, compensatory measures are provided to be determined finally by courts, in cases of any litigation arising. The need to organise special programmes on "compensatory measures for violation of environmental protection laws" is imperative as many cases are arising now and then, when the injured party claims compensation for acts of violation of Environmental Protection Laws. These programmes must work out 'just principles of compensation' and evaluate judicial principles laid down from time to time. In the end, all the programmes undertaken or proposed need financial inputs. The Government and the people should be concerned about the adequacy of funds needed for conducting the programmes and efforts must be made to pool the required resources.

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7. M.C.Mehta Vs. Union of India, AIR 2004 SC P.4016.
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